

THE
CRIMINAL LAW

OF THE

~~Madr~~ Presidency,

AS CONTAINED

IN THE ~~EXISTING~~ REGULATIONS AND ACTS

WITH

STATEMENT OF CRIMES AND PUNISHMENTS, INDICES, &c.

COMPILED AND ~~ARRANGED~~

IN ACCORDANCE WITH RECENT MODIFICATIONS,

BY

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Madr

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1858.

PREFACE.

IN the year 1848, I prepared a compilation of the Regulations and Acts then constituting the Criminal Code of the Madras Presidency. Many additions and alterations have since been made; and at the request of the publishers I have therefore revised, and indeed remodelled the work. In its present shape, it will, I hope, answer its design of placing before the student or practitioner, in one view, and in a convenient form, the existing enactments of the Criminal Law which they would otherwise have to seek out amid the general mass of Statutes; while the care which has been taken to exhibit each as it stands affected by subsequent modifications, will save them certainly from much labour, and possibly error.

Act XIV., XVI. and XVII. of 1857, would have expired in June 1858, had they not been continued in force till 31st December 1859, by Act XXII. of 1858.

Act XV. of 1857, imposing certain restrictions on the Press expired on the 15th June last.

Act XXVIII. of 1857, will expire on the 11th September 1859, and Act VI. of 1858, on the 29th July 1858.

Since I was compelled to close the volume for the Press, the following Acts have been promulgated which would have otherwise received notice or a place therein.

Act X. of 1858.—*An Act to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices, in cases of rebellion and other crimes committed by the inhabitants of Villages, or by members of tribes; and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion, or in the apprehension of rebels, mutineers or deserters.*

By Section XV. of the above Act its operation is confined to such districts or places as it may be extended to by order of the executive Government of each Presidency.

Act XI. of 1858, *authorizing infliction of corporal punishment in certain cases, in lieu of imprisonment or fine.*

Section V. contains a similar proviso, as in Section XV. Act X. of 1856.

Act XIII. of 1858.—*An Act for the punishment of persons who unlawfully possess or conceal arms, or other property, belonging to Her Majesty or the East India Company.*

Its 1st Section contains a proviso as to operation similar to that in Acts X. and XI.

Act XVI. of 1858.—*An Act to extend Act XXV. of 1855—* Erects a Subordinate Court at Ootacamund—as alluded to in the note at page 279.

Act XVIII. of 1858.—*An Act for the Regulation of certain Ports within the Presidency of Fort Saint George.*

Extends the provisions of Sections XVI. and XXIV. Act XXII. of 1855, to Ports mentioned in Schedule annexed to Act.

Act XXII. of 1858.—*An Act to continue in force for a further period, Acts XIV., XVI. and XVII. of 1857, and to authorize in certain cases the transportation of offenders sentenced to imprisonment.*

Act XXIII. of 1858.—*An Act for bringing the district of Kurnool under the laws of the Presidency of Fort St. George.*

This Act repeals Act X. of 1843, which see at page 215, and places Kurnool under the ordinary laws, for the Administration of Justice, and Collection of Revenue, from the 1st July, 1858.

It will be observed that instead of bringing together all the laws, or portion of them, having reference to each particular subject as in the former volume, I have in *this* arranged the

entire Regulations and Acts in their chronological order. The former method certainly had its advantages, but many considered them more than counterbalanced by the difficulty of finding any particular Section which might be wanted, and I adopted the present plan the more willingly as the “*Index*” and “*Statement of Crimes and Offences*” do in effect enable all the Law relating to each subject to be studied and referred to at once, and without difficulty.

MADRAS, *July*, 1858.

* S T A T E M E N T

OF

CRIMES AND OFFENCES,

WITH THEIR PUNISHMENTS AND PENALTIES.

* In this Statement will be found under the following heads the penalties prescribed for the various offences created by Statute in respect of them. The Acts themselves, being voluminous, and consisting in great part of ordinances and instructions for the guidance of those immediately affected by, or acting under them, have not been inserted in this work as being calculated unnecessarily to increase its bulk.

	Acts		Acts
Apprentice.....	XIX. 1850	Post Office.....	XVII. 1854
Boat.....	IV. 1842	Printing Press.....	XI. 1835
Copyright.....	XX. 1847	Railway.....	XVIII. 1854
Customs.....	{ I. 1812	Seamen.....	XXVII. 1850
	{ VI. 1844	Ships.....	XI. 1841
Indian Navy.....	III. 1855	Telegraph.....	XXXIV. 1854
Port.....	XXII. 1855		

STATEMENT OF CRIMES AND OFFENCES, &c.

ABBREVIATIONS USED.

D. M. L.	Discretionary Punishment under Mahomedan Law.
S. C.	Session Court.
C. C.	Criminal Court.
M.	Magistrate.
J. P.	Justice of the Peace.
F. U.	Foujdaree Udaltut.
H. P.	Head of Police.
P. A.	Police Ameer.
C. R.	Civilian's Remembrancer.
V. M.	Civilian's Vade Mecum

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			CL.	Section.	Reg. or Act.	
ABDUCTION. Unlawfully taking or causing to be taken, any unmarried girl, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.....	S. C. { D. M. L. Imprisonment not exceeding 7 years, and stripes not exceeding 195.....			II	XV 1803	{ In the case of this, and other offences, not specifically provided for by any Regulation or Act, but which may be liable to D. M. L., the S. C. exercises its discretion, within the limits prescribed by Cl. 7, Sec. II, Reg. XV. of 1803; which enactment however provides for the reference of any case to the F. U., for which the Session Judge may deem that measure of punishment inadequate; and that Court may at its discretion, pass any sentence short of capital punishment, under Cl. 3, Sec. VII, Reg. XV. of 1803.
ABKAREE. See Liquor.						
ABORTION—Procuring. Unlawfully administering to or causing to be taken by a woman, any poison, or other noxious thing—or unlawfully using any instrument or other means with the like intent.	"	Ditto.	"	"	"	{ Ditto. As to caution in entertaining charge of, see Cir. Ext. F. U. 15th July 1847.

CRIME.	By whom cognizable.	Punishment.	LAW.				Page.	REMARKS.
			Cl.	Section.	Reg. or Act.	Year.		
ABUSIVE LANGUAGE.—See "Petty Offences."								
ACCESSARY.								
To Robbery with murder.....	S. C.	Death.	1	IV	XV	1803	{ Accessaries before the fact, or after, as well as abettors in crimes and misdemeanors, are generally liable to the same punishment as the principals. The cases of parties receiving stolen goods, are specially provided for. Fine may be imposed under Act XVI. of 1850. See "Attempt."	
To do with serious violence....	"	Transportation for life.	2	"	"	"		
To do without such violence..	"	Fourteen years Imprisonment.	3	"	"	"		
ACCOUNT.								
Falsification of.....	S. C. {	Fine and imprisonment with or without labour not exceeding one year... ..	XVII		XIII	1850	236	{ Prosecutors or Complainants alone are punishable under this enactment.—the Imprisonment must be without irons. C. O. F. U. 27th June 1831. The imprisonment must be without labour — C. O. F. U. 18th Sept. 1824. Partially groundless complaints are not punishable under this law.—F. U. 7th Jan. 1837, C. R. 107.
False before Police.....	C. C. {	Imprisonment not exceeding 6 months.....	II		IX	1832	169	
			XXXV		"	1816	60	
Do. do. Magistrate under Sections XXXII. and XXXIII, Reg. IX. of 1816.....	M {	Imprisonment for 15 days, or fine not exceeding 50 Rupees, save in cases specified, when it may extend to 200.....	..		..	..	..	{ This crime is punishable by death under the Mahomedan Law ; but the practice of the Courts may be said to have fixed the maximum punishment within the discretion allowed by Cl. 7, Sec. II, Reg. XV. of 1803. It is requisite that the charge be preferred to a European authority either by the wife against the husband, or the husband against the wife. See Cl. 4, Sec. III. Reg. I. of 1818.
ADULTERY.								
	S. C. {	Imprisonment not exceeding 7 years, and stripes not exceeding 195....	II		XV	1803	26	

{ Prosecutors or Complainants alone are punishable under this enactment—the imprisonment must be without irons. C. O. F. U. 27th June 1831.
{ The imprisonment must be without labour.—C. O. F. U. 18th Sept. 1824. Partially groundless complaints are not punishable under this law.—F. U. 7th Jan. 1837, C. R. 107.
{ This crime is punishable by death under the Mahomedan Law; but the practice of the Courts may be said to have fixed the maximum punishment within the discretion allowed by Cl. 7, Sec. II, Reg. XV. of 1803. It is requisite that the charge be preferred to a European authority, either by the wife against the husband, or the husband against the wife. See Cl. 4, Sec. III, Reg. I. of 1818.

AFFRAY.									
Inconsiderable—See "Petty offences."	{ C. C. or M. }	{ D. M. L. Imprisonment for 6 months, and fine as far as 200 Rs. and if not paid further imprisonment for 6 months..... }	VII	X	1816	64	{ Cases appearing to require still more severe punishment may be committed to S. C. by which they are punishable at discretion under Cl. 7, Sec. II. Reg. XV. of 1803. }		
More serious cases.....									
AIDING.									
Escape of Robbers.....	C. C.	Ditto.	"	"	"	"	{ See C. O. F. U. 9th October 1841. }		
Secreting robbers against whom War-rants are out, supplying them with food and other necessities, adopting other means to enable them to escape apprehension.....							{ Cases requiring more severe punishment may be committed to S. C. for trial under Cl. 7, Sec. II. Reg. XV. of 1803. }		
See Accessary.									
AMMUNITION.									
See Gunpowder.									
APPRAISEMENT.									
Fraudulent, of property ordered to be sold by Collector, in execution of judgment under Reg. IX. 1822..	Collr.	{ Fine to amount of loss occasioned, in default imprisonment for one year..... }	X	IX	1822	125			
APPRENTICE.									
Ill treatment of by master, or agent..	{ J. P. or M. }	{ Fine for benefit of Apprentice not exceeding four times amount of premium paid. Or if no premium or less than 50 Rs. a sum not exceeding 200 Rs. and cancellation of Apprenticeship. Confinement not exceeding one month, one week of which may be solitary, in any debtor's prison, or place not being a criminal jail, and if boy under 14, private whipping, or confinement in house or vessel of master not exceeding 1 month on bread and water or other plain food. }	XIII	XIX	1850		{ Sec. XIV. allows moderate chastisement such as may be lawfully given by a father to his child. Sec. XVI. and XVII. provide for the cancellation of the Apprenticeship on cases of continued ill conduct on the part of the Apprentice. }		
Ill behaviour of to master.....	"		XV	"	"		{ By Sec. XVIII. a complaint from a master must be made within one month from the cause thereof, or if on board ship, within one month after arrival in port. Complaint from Apprentice against master must be preferred within three months, or within three from arrival of ship in port. }		
ARMS.									
Possessing without giving notice as prescribed by Act XXVIII. of 1857	M	Confiscation, and fine not exceeding Rupees 500.....	II	XXVIII	1857	309			

CRIME.	By whom cogniza-ble.	Punishment.	LAW.			REMARKS.
			Cl. Section.	Reg. or Act.	Year.	
ARMS.—Continued.						
If more than reasonable for private use.....	M	Confiscation, imprisonment with or without hard labor not exceeding 2 years; and fine not exceeding Rupees 5000.....	II	XXVIII	1857	309
Making, selling, repairing, without license or contrary to license.	"	Confiscation and fine, not exceeding 500 Rupees—in addition to double the value of arms sold.....	"	VII	"	311
ARMY.						
Of E. I. Company, Tampering with.	S. C.	Transportation for life or imprisonment with or without labour for any term not longer than 7 years.	I	XIV	1849	231
Exciting, or causing others to excite, Mutiny or Sedition in.....	Comr.	Death,—or transportation for life, or term not exceeding 14 years, and confiscation of all property..	I	XIV	1857	{ This enactment dated 6th June 1857, is to continue in force for one year. See also Acts XVII. and XXV. of 1837—pp. 302 and 360.
ARSON....	S. C.	D. M. L. Imprisonment not exceeding 7 years, and stripes not exceeding 195.....	II	XV	1803	{ See Remark on "Abduction." The highest punishment in cases of this crime, for which a precedent can be found, is 14 years' imprisonment with hard labor in irons.
ASSAULT.						
By European British subjects on Natives without limits of Supreme Court.	M. or J. P.	Fine not exceeding 500 Rs. and in default of payment imprisonment not exceeding 2 months....	II	II	1820	100,
By do on any person.	Ditto	Ditto.	I	VII	1853	245
Other cases.						
Inconsiderable—See "Petty offences."						
More serious cases.....	C. C. or M.	D. M. L. Imprisonment not exceeding 6 months, & fine not exceeding 200 Rs. commutable if not paid to 200 Rs. further imprisonment.	VII	X	1813	64.
Aggravated and severe.....	S. C.	Imprisonment not exceeding 7 years, and stripes not exceeding 195.	II	XV	1803	26
With intent to commit rape.....	Ditto	Ditto.	"	"	"	"
						{ See Remarks on "Abduction." Ditto.—See case of this description in C. R. p. 419, No. 335, in which prisoner was sentenced by F. U. on reference, to 2 years' imprisonment with hard labor in irons.

ASSEMBLY.—Unlawful.		M.		III		1831 157	
Riotously assembling in a manner indicating an intention to commit an unlawful act, or inconsistent with public tranquillity, and refusing to disperse when ordered by the Magistrate.....				II			
Assembling in bodies of 12 or more, for riotous or rebellious purposes, or for the purpose of interfering with, or obstructing the collection of the revenue, and refusing to disperse when called upon to do so by the local authorities, or reassembling after having dispersed.....		S. C. {		III			
		Imprisonment not exceeding 10 years, or less than 3.....					
ATTEMPT.		S. C. {		III & IV		1803 26	
At Robbery by open Violence.....		S. or C. C. {		XV		1822 111	
At House breaking.....		"		VI		"	
At Theft.....		"		"		113	
AUTHORITY.		M.		III		1819 92	
Abuse of, by Native Police Officers. Petty cases—See " Petty offences."							
More serious cases.....							
Aggravated cases.....		C. C.		III		92	
						</	

CRIME.	By whom cognizable.	Punishment.	LAW.			Page.	REMARKS.
			Cl. Section.	Reg. or Act.	Year.		
BOAT.							
Employing, or serving in unregistered, or catamaran	J. P. }	Fine not exceeding 50 Rupees, and confiscation.....	I	IV	1842	{ By Act IX. of 1846. The Governor in Council is empowered to make rules, respecting these matters, and on similar principles, for any Port in the Madras Presidency, and its penal clauses are therefore inserted here, which otherwise, as affecting the Port of Madras only, would not have been done.	
Neglecting to give notice of change of ownership, crew, or residence..	"	Fine not exceeding 50 Rupees....	II	"	"		
Painting false number on.....	"	Ditto. 100 "	IV	"	"		
Omitting to keep number legible, or concealing of owner.....	"	Ditto. "	V	"	"		
Aiding in so doing.....	J. P.	Fine not exceeding 50 Rupees.....	V	IV	1842		
Refusing to carry passengers or goods to extent specified in license.	"	Ditto. "	VI	"	"		
Carrying passengers or cargo in excess.....	"	Fine on Tindal 5 Rupees for each passenger, or candy weight in excess, or in case of owner, 50 Rs. in each case, or accessory, 10 Rs. in do.....	VII	"	"		
Leaving Shore, or remaining out, in violation of rules, or signals made.	"	Fine not exceeding 30 Rs.....	VIII	"	"		
Neglecting to keep in proper order and repair.....	"	Withdrawal of license.....	IX	"	"		
Landing goods at other than appointed places.....	"	Fine not exceeding 100 Rs.....	X	"	"		
Communicating with Ship not in proper anchorage.....	"	Ditto. 10 "	XI	"	"		
Not attending for hire.....	"	Ditto. 10 "	XII	"	"		
Demanding excess hire.....	"	Ditto. 10 and forfeiture of hire.....	XIII	"	"		
Refusing to let an hire.....	"	Fine not exceeding 20.....	XIV	"	"		
For second offence.....	"	Ditto. 100 and forfeiture of license.....	XV	"	"		
Crew of, neglecting or deserting duty	"	Corporal punishment not exceeding 36 lashes.....		"	"		

[illegible]

et XXV. of 1855, prescribes and regulates the fixing of boundary marks by the Revenue authorities—Sec. V. being the only penal Clause, it has not been inserted in extenso.

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			Cl.	Section.	Reg. or Act.	
BRIBERY.	Giving bribe to any public officer, or servant on the establishment of the Collector, or to any Head Inhabitant, or other village officer.....	Fine to double the amount of bribe proved to have been paid; and in default of payment imprisonment not exceeding one year, or until fine be paid.....	XVII	IX	1822 128	Aggravated cases, of this offence may be committed to the S. C. under Cl. I. Sec. XVIII. Reg. IX. 1822, which does not however prescribe the punishment to be inflicted, Cl. 7 Sec. II. Reg. XV of 1803, would apply. It has been ruled that "giving bribes to the public servants of any public office for corrupt purposes is clearly a misdemeanor, both under the English and Mahomedan Law, and though not specifically mentioned in the regulations, the individual committing it is unquestionably liable to a criminal prosecution." Beng. N. A. Const. 522, 4th Sept. 1829.
CALUMNY.						
See "Petty Offences."						
CATTLE						
Stealing—Trivial cases, see "Petty Offences,"						
Other cases.....	C. C. or M.	Imprisonment not exceeding 6 months, and stripes not exceeding 150.....	VII	X	1816 64	
Graver cases.....	C. C.	Imprisonment with hard labor not exceeding 2 years, and stripes not exceeding 150.....	III	VI	1822 115	
Malicious injury to.....	"	Imprisonment not exceeding 2 years.....	VIII	XIII	1832 174	
Petty cases of.....	M.	Imprisonment not exceeding 1 month, or stripes not exceeding 90.....	"	"	" "	
Ditto	{ HP. or {	Imprisonment with labor not exceeding 10 days.....	"	"	" "	
Trespasses by.—See Strays.	P. A. {					

CHILD									
Stealing.....	S. C.	{ D. M. L. Imprisonment for 7 years with labor, and stripes not exceeding 195	7	II	XV	1803	26	{ In time of famine this act is not punishable, see C. O. F. U. 17th September 1839.	
Sale of—by parent, save in time of famine.....	C. C.	{ D. M. L. Imprisonment not exceeding 6 months and fine not exceeding 200 Rs.—Commutable if not paid to 6 months' further imprisonment.....	..	VII	X	1816	64		
COIN.									
Forgery of, or procuring to be forged.	S. C.	{ Imprisonment, in banishment from the District, for not less than 7 or more than 14 years, with lashes not exceeding 150.	2	V	II	1822	109	{ If the Session Judge consider 7 years too severe a sentence, he may refer the trial to the F. U. who are authorized by Cl. 3, Sec. V, Reg. II of 1822, to mitigate the sentence at their discretion.	
Uttering knowing it to be counterfeited.....	"	{ Imprisonment not exceeding 7 years with—in aggravated cases, and in instances of repetition of offence, after previous conviction and punishment, stripes not exceeding 150, at discretion of Session Judge.....	1	VI	II	1822	109		
Clipping, or filing, drilling, defacing or debasing.....	"	{ Ditto.	2	"	"	"	"		
Possessing counterfeit, without showing good and sufficient cause.....	M.	{ Fine equal to four times nominal value of such counterfeit Coin; or in default of payment imprisonment not exceeding 6 months.....	....	VII	"	"	110		
Possessing or making, instruments for forging.	C. C.	{ Imprisonment and hard labor in irons for not more than one year.	3	IV	VI	1827	138		
Knowingly making, mending, buying, selling, concealing, or possessing, any instrument used exclusively for coining money, without lawful authority.....		{ Imprisonment and hard labor in irons for not more than eighteen months, and stripes not exceeding 150.....	"	"	"	"	"		
For second offence committed after conviction of the first.....	"		"	"	"	"	"		

Statement of Crimes and Offences, &c.

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			CL.	Section.	Reg. or Act.	
COIN.—Continued.						
For third or any subsequent offence..	S. C.	Imprisonment and hard labor in irons, in banishment at the discretion of the Judge, for not more than seven years with stripes not exceeding 195.....	4	IV	VI	1827 138
COLLUSION.						
To conceal property of Party accused or suspected of malversation by Collector ..	C. C.	Fine, three times amount so concealed, imprisonment till paid, but not exceeding 1 year....	VIII	IX		1822 124
CONNIVING.						
At escape of Prisoner, By regular Peons.....	S. C.	Imprisonment not less two, or more than five years.....	2	XI	XIII	1832 174
By others, not military.....	S. C.	D. M. L.....	7	II	XV	1803 26
CONSPIRACY.....						
Ratified by oath, bond or agreement, to alter or defeat the law by threatening Government or its Officers...	"	{ D. M. L. Imprisonment not exceeding 7 years with hard labor, and stripes not exceeding 195....	7	II	XV	1803 26
	"	{ Imprisonment for not less than 3 or more than 10 years.....	.....	IV	III	1831 157
CONTUMPT—of Court.						
Magisterial, Criminal, Civil, or Revenue.						
By using menacing gestures or expressions: or otherwise obstructing justice in presence of officer presiding.....	Officer presiding	Fine not exceeding 200 Rs. or in default of payment, imprisonment not exceeding one month.....	I	XXX		1841 203

Only guards in charge of *Convicts* were originally named, but the law was extended, to those having custody of prisoners, whether convicts or not, by Cl. I. Sec. VII. Reg. I. of 1810: no punishment however is specified.

See remarks on "Abduction."

COPY RIGHT.		S. C.	Imprisonment with or without hard labor, not exceeding three years.....	IV	XX	1847	The other Sections of this Act have reference to civil obligations, actions thereupon, &c. and it has not therefore been inserted.
CORPSE.							
Concealing one found with marks of violence, without giving information to an Officer empowered to hold an inquest.....		C. C. { or M. {	D. M. L. Imprisonment for 6 months, and fine of 200 Rupees, commutable if not paid to 6 months' further imprisonment.....	VII	X	1816	{ This offence was ruled to be thus punishable by the P. U. on the 12th October 1836. C. R. p. 17.
CRIMPING.							
As defined in Sec. I—III. Act XXIV. of 1862.		M. {	{ Imprisonment not exceeding 6 months and fine not exceeding Rupees 500.....	IV	XXIV	1862	{ Imprisonment may be with or without labor at discretion. Sec. VI. For improperly inducing emigration. See "Emigration."
CUSTOMS.							
Frauds relating to, or receiving or purchasing articles knowing them to be smuggled.....		C. C. {	{ Fine not exceeding Rs. 100, or in default imprisonment for 3 months.....	XXI	I	1812	
Unauthorized collection of—							
Petty cases of, By Native Officers.....		M.	Penalties prescribed in Sec. XXXII and XXXIII, Reg. IX of 1816.....	XLV	IX	1816	{ In both these cases the aggrieved party is also at liberty to prosecute for damages in Civil Court.
By others.....		"	Do. excepting corporal punishment.....	XXIV	I	1812	
More serious cases of.		C. C.	Imprisonment not exceeding 2 years, or fine, or both.....	LV	VI	1844	
Obstructing officer of, in duty.....		"	Imprisonment not exceeding 6 months, or fine not exceeding Rs. 1,000—or both.....	LIV	"	"	
Vexatious detention, &c. of goods at frontier Choke.....		Coll. { or M. {	Imprisonment not exceeding 6 months, and fine not exceeding 500 Rs. commutable if not paid to further imprisonment of 6 months.....	XV	"	"	

Statement of Crimes and Offences, &c.

CRIME.	By whom cognizable.	Punishment.	LAW.			Page.	REMARKS.
			Cl.	Section.	Reg. or Act.		
EXTORTION.							
See "Abuse of Authority."							
FALSE PRETENCES.							
Cheating by.....	C. C.	{ D. M. L. Imprisonment not exceeding 6 months, and fine not exceeding 200 Rs. commutable if not paid to further imprisonment not exceeding 6 months..... } ..	VII		X	1816	64
Aggravated cases.....	S. C.	{ Imprisonment not exceeding 7 years, and stripes not exceeding 195..... } 7	II		XV	1803	26
FORGERY.							
All fraudulent and injurious fabrications or alterations of written or printed papers, of whatever description—all counterfeit seals or signatures thereto; and illicit imitation of any public stamp, or stamped paper established by Government..	"	{ Imprisonment and hard labor for not less than 4, nor more than 7 years, in banishment at discretion, with stripes not exceeding, 150..... } 1	III		VI	1811	40
Procuring or causing any such Forgery	"	Ditto: 3	IV		"	"	42
FRAUD.							
Petty—See "Petty offences"	G. C.	{ D. M. L. Imprisonment not exceeding 6 months, and fine not exceeding Rs. 200, commutable if not paid to further imprisonment not exceeding 6 months..... } ..	VII		X	1816	64
More serious cases.....	S. C.	Ditto 7	II		XV	1803	26
Extensive							

{ Offences of this nature were declared punishable by the Mahomedan Law Officers, upon reference made to them by F. U. and advertised to in their proceedings of the 23d Jan. 1837, which see reported in C. R. No. 384, page 173.

{ The infliction of stripes is at the discretion of the Judge. The minimum punishment is mitigable by the F. U. on recommendation under Sec. V, Reg. I of 1825.

{ No express legislative enactment defines what extent of Fraud renders a case committable; but the F. U. have observed, "That the amount involved in the Fraud would in most cases lead to the same jurisdiction as the same amount in a case of Theft. If the provisions of Sec. VII, Reg. X of 1816 do not embrace a sufficient punishment, the case must be committed to the S. C."—F. U. 28th Dec: 1844.

GAMBLING.									
See "Petty offences."									
GANG.									
Of wandering thieves and robbers, belonging to.....	{ S. C. {		Imprisonment with hard labor, not exceeding 7 years....	I	XI	1848	225		
GUNPOWDER.									
Collecting or keeping in one place, or within places not exceeding 3 miles distance from each other, a quantity exceeding 50 lbs. without license.....	M		Forfeiture—and fine not exceeding Rs. 500.....	VII	XIII	1841	201		
Keeping for sale without license....	M		Ditto	VII	XXVIII	1857	311	See this Act <i>passim</i> —on this subject, and mutations of war generally.	
HIGHWAY ROBBERY.									
	S.C.		The penalties of "Robbery by open violence" which see.....	III & IV	XV	1803	26	{ Highway Robbery by a single unarmed person does not fall within the definition of "Robbery by open violence" in Sec. III, Reg. XV of 1803. The Mahomedan Law will however in such cases declare a party convicted thereof liable to "Hud," and amputation of two limbs which under Sec. XXI, Reg. VII of 1802 is commutable to 14 years' imprisonment.—See on this point C. O. F. U. 20th Nov. 1835.	
HOMICIDE—Culpable.									
Not amounting to murder.....	"		Imprisonment temporary, or for life, according to circumstances.	2	VII	1802	2	{ Homicide if purely accidental, and done in the prosecution of a lawful act and without any malicious intention, is declared not punishable by Sec. IV, Reg. I of 1818. In regard to the mode of dealing with such cases see the orders on the subject in C. O. F. U. 3d July 1834.	

Statement of Crimes and Offences, &c.

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			Cl.	Section.	Reg. or Act.	
HOUSE BREAKING. Breaking, or attempting to break, into a place of habitation, or receptacle for the custody of property, with intent to steal; or in any manner aiding in and abetting the same.....	C. C.	Imprisonment with hard labor for not more than two years, with stripes not exceeding 150.....	6	II	VI	1822 113
If committed by one before convicted of any heinous offence, or of notoriously bad character, or employed as Watchman, Guard or Police Officer, or if property be stolen exceeding in amount or value 100 Rs.	S. C.	Imprisonment with hard labor for not more than seven years, with or without stripes not exceeding 195.....	..	XXI	VII	1802 6
If attended with wounding or corporal injury not endangering life.....	"	Imprisonment in banishment for not more than fourteen years, with stripes not exceeding 195..	4	II	VI	1822 112
If accompanied with an attempt to commit murder, or with such corporal injury as to endanger life.	"	Transportation for life, with or without stripes not exceeding 195.....	3	"	"	" "
JUSTICE. Obstruction of—" See Obstruction."						
LANGUAGE. Obscene—publicly uttering or singing—to annoyance of others	M	Fine not exceeding Rs. 100, or imprisonment with or without labour for 3 months.....	...	I	I	1856 280
—Abusive—See "Abusive Language"						
LABEL. Publication of libellous paper.....	C. C.	D. M. L.—Imprisonment not exceeding 6 months, and fine not exceeding Rupees 200, commutable if not paid to further imprisonment not exceeding 6 months.	..	VII	X	1816 64

The M. L. Officer will declare a convict liable to amputation of the wrist as 'Hud,' and the sentence must be commuted under this enactment; stripes may be added, under Sec. II, Reg. VI, of 1827; or mitigation recommended, if deemed proper, under Sec. IV. Reg. I, 1825.

Cases of this nature must be referred to the F. U.—Session Judge may recommend mitigation if he see fit.

The Law Officers of the F. U. declared the act "of affixing in a public street an obscene paper, aspersing in language the most disgraceful a respectable native family" to be punishable under the Mahomedan law. See proceedings of the F. U. or the case reported in G. R. No. 577, page 269—a case requiring more severe punishment might be committed to the S. C. for disposal under Cl. 7, Sec. II, Reg. XV. of 1803.

CRIME.	By whom cognizable.	Punishment.	LAW.			Page.	REMARKS.
			Cl. Section.	Reg. or Act.	Year.		
LIQUORS, &c.—Continued. Any Native not being a vender duly licensed, having in his possession within the limits of any Military Bazaar Station or Cantonment more than one bottle of spirituous liquor, or one seer of any intoxicating drug without a permit.....	Officer in charge of Police in military limits.	Imprisonment with hard labor not exceeding one month for the first offence by the Commissariat, or other Officer in charge of the Police: for a subsequent offence, the offender is to be tried by a Court Martial, when corporal punishment not exceeding 50 stripes may also be adjudged....	1	XVI	"	164	For second or subsequent offence, the offender is to be tried by Court Martial, when stripes not exceeding 50 may also be awarded.
			2	XI	"	"	
Any Native smuggling, or attempting to smuggle, within the limits of any Military Bazaar Station, &c., spirituous liquors or intoxicating drugs, or selling the same within the same limits to or for any European Non-Commissioned Officer or Soldier, or European Woman, except as sanctioned by General Orders of Government in Canteens of European Regiments.....	"	Imprisonment with hard labor not exceeding one month					
LOTTERY. Publicly or privately keeping a place for, or drawing, or allowing to be drawn—not authorized by Govt.... Being concerned in—in various degrees.....	M. or J. P.	Fine not exceeding 5000 Rupees.....	.....	II	V	1844 217	Half these fines are payable to the Informer.
			.....	III	"	"	
MALVERSATION. In Revenue Cases, (as defined, in Cl. 2, Sec. II. Reg. IX. of 1822)..... Ditto. Aggravated cases.....	Collr.	Fine to double amount extorted or misappropriated, &c.....	1	V	IX	1822 122	
	G. C.	Imprisonment not exceeding one year.....	1	XVII	"	" 128	
	S. C.	Imprisonment not less than one, or more than five years.....	2	"	"	" "	

[illegible]

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			Cl.	Section.	Reg. or Act.	
NUISANCES.						
Local.—disobedience of Magistrate's Injunctions regarding.....	M	{ Fine not exceeding 200 Rupees, commutable if not paid to imprisonment not exceeding 1 month.....	II	XXI	1841	203
OATH.—Unlawful. Using or making any oath, bond, or agreement, in ratification of conspiracy to threaten Government or its Officers.....	S. C.	{ Imprisonment not less than 3, or more than 10 years.....	IV	III	1831	157 See "Conspiracy."
OBSCENITY.						
Petty cases.—See "Petty Offences" Aggravated cases.....	C. C.	D. M. L. Imprisonment not exceeding 6 months, and fine not exceeding Rupees 200, commutable if not paid to further imprisonment not exceeding 6 months.....	VII	X	1816	64 See remark on "Libel."
OBSTRUCTION.						
To Justice—by gesture or otherwise, in any Court, Civil or Criminal....	The Court.	Fine not exceeding 200 Rs. or imprisonment not exceeding one month.....	I	XXX	1841	203
Or before Board of Revenue, Commissioner or Collector, &c.....	The Authority.	Ditto.	II	"	"	204
PERJURY.						
Giving intentionally and deliberately before a Court of Judicature, Magistrate, or other authorized Public Officer, a false deposition upon oath, or under a solemn declaration taken instead of an oath, relative to some judicial proceeding, Civil or Criminal, and upon a point material to the issue thereof.....	S. C.	Imprisonment and hard labor for not less than four nor more than seven years, in banishment at discretion, and stripes not exceeding 160.....	III	VI	1811	40 Mitigable by F. U. under Section V. Reg. I. of 1853.

[illegible]

CRIME.	By whom cognizable.	Punishment.	LAW.			Page.	REMARKS.
			Cl.	Section.	Reg. or Act.			Year.
PETTY OFFENCES—Continued.							
Cattle stealing.....	M.	Imprisonment in Zillah Jail or Village choultry not exceeding one month with labor, or stripes not exceeding 90.....	.....	XXXIII	IX	58	{ Cattle stealing declared to be thus punishable by Sec. III. Reg. VI. of 827—land "injuring" by Cl. 2. Sec. VIII. Reg. XIII. of 1832. "Receiving" in petty cases was ruled to be punishable as petty theft itself, by F. U. C. O. 26th Nov. 1822. }
Ditto	H. P. or P. A.	Imprisonment not exceeding 10 days with labor.....	2	VIII	XIII	1832	
Theft, petty, from person or place.....	M.	Imprisonment in Zillah Jail or Village choultry not exceeding one month with labor, or stripes not exceeding 90.....	1	XXXIII	IX	58	
Ditto, and if not exceeding 5 Rupees, or attended with aggravating circumstances, or committed by persons of notoriously bad character.	H. P. or P. A.	Imprisonment not exceeding 10 days with labor.....	.....	V	XIII	1832	
Ditto, and if not exceeding 1 Rupee and ditto.....	Head of Village.	Imprisonment in Village Choultry not exceeding 12 hours; or imprisonment in stocks not exceeding 6 hours, when condition of party may render that punishment not improper.....	1	VI	IV	1821	105
PICTURES.—Obscene.							
Offering for sale, or exposing publicly.....	M. or J. P.	Fine not exceeding Rs. 100, or imprisonment with or without hard labor not exceeding 3 months or both.....	.....	I	I	1856	280
PORT.							
Breach of local rules.....	{ M. or J. P. }	{ Fine not exceeding Rupees 100 for each offence..... Ditto Fine not exceeding Rupees 200 for each offence..... }	{ " " " }	IX XI XII	XXII " "	1855 " "	{ Act XXII. of 1855, contains no less than 75 Sections, and only affects Madras, and such Ports as it may be specially extended to: it has not therefore been inserted in the body of the work, the abstract of the penal clauses here given being sufficient to indicate its nature and extent, and to }
Disobedience to Conservator of.....	"						
Moving vessel in, without Pilot, or permission of Harbour Master.....	"						

Statement of Crimes and Offences, &c.

Xxiii

serve as a memorandum to Magistrates of the cases in which they may be called on to act under its provisions. Fines imposed may be levied as provided in Act II. of 1839, or by distress upon vessel, its tackle, &c.

Certain letters termed "Excepted," are exempted from the operation of these rules —for particulars respecting them, see Sections II. Act XVII. of 1854.

Refusing to aid in warping	"	Ditto	.....	XIII	"	"
Creating nuisance or obstruction in.	"	Fine not exceeding Rupees 100 and expenses of removal.....	100	XVII	"	"
Injuring Buoy in.....	"	Fine not exceeding Rs. 200, or imprisonment with or without hard labor not exceeding 6 months...	200	XX	"	"
Getting foul of Buoy or moving in, and not reporting.....	"	Fine not exceeding 100 Rupees...	100	XXI	"	"
Loosening vessels from moorings in, without authority.....	"	Fine not exceeding 200 Rs. or imprisonment with or without hard labor not exceeding 6 months...	200	XXII	"	"
Improperly discharging ballast in...	"	Fine not exceeding 200 Rs. over & above expenses of removing same.	200	XXIV	"	"
Gravelling vessel within prohibited limits.....	"	Ditto 200..	200	XXVI	"	"
Boiling pitch, &c. within, &c.....	"	Fine not exceeding Rupees 500..	500	XXV	"	"
Drawing spirits by candle light.....	"	Ditto 200..	200	XXVII	"	"
Not having force pump.....	"	Ditto 500..	500	XXVIII	"	"
Making false declaration as to amount of Gunpowder, &c. in vessel	"	Ditto 200..	200	XXXI	"	"
Having same on board contrary to Act.	"	Ditto 200..	200	XXXV	"	"
Discharging fire arms in.....	"	Ditto 50..	50	XXXVI	"	"
Searching for lost Stores in without authority.....	"	Ditto 100..	100	XXXVIII	"	"
Injuring shores of.....	"	Ditto 100..	100	XL	"	"
Not reporting arrival in, within 24 hours.....	"	and expenses of repair.	100	XLVI	"	"
Obstructing officer in discharge of duty, under Act.	"	Fine not exceeding Rupees 100..	100	LII	"	"
Wearing unlawful colours in.....	"	Ditto 200..	200	LIV	"	"
POST OFFICE.						
Offences against Laws relating thereto.						
Sending, conveying, collecting, delivering, or receiving letters contrary to rules laid down in Sections II. and III. Act XVII. of 1854..	M or J. P.	Fine not exceeding 50 Rupees for each letter so conveyed, &c.	50	IV	XVII 1854	.....

CRIME.	By whom cognizable.	Punishment.	LAW.			Page.	REMARKS.
			Cl. Section.	Reg. or Act.	Year.		
POST OFFICE—Continued.							
Habitually doing any of the above acts.....	"	Fine not exceeding 500 Rupees for every week, such practice may have been carried on.....	"	IV	XVII	1854	{ Any person whether British subject or not, is punishable by J. P. or Magistrate—where punishment is fine only : and if by J. P. upon summary conviction. { Such fines may be levied by distress—failing which, imprisonment either with or without hard labor, may be awarded: where fine does not exceed Rupees 50 for two months—and in other cases for a term not exceeding six months.
Enclosing letters in Banghy parcel.....	"	Fine not exceeding 50 Rupees each letter	"	XI	"	"	
Sending letters under 12 Rupees weight by Banghy.....	"	Ditto	"	XVI	"	"	
Sending or endeavouring to send by post any dangerous substance or material.....	"	Fine not exceeding Rupees 200,....	"	XXIV	"	"	
Postage Stamps, Venders of, willfully transgressing rules.....	"	Ditto	"	XXXII	"	"	
Refusing to sell.....	"	Fine not exceeding Rupees 100,....	"	XXXIII	"	"	
Selling at higher price.....	"	Imprisonment with or without hard labor, not exceeding 6 months, or fine not exceeding Rupees 100, and refund of excess.....	"	XXXIV	"	"	
Forging stamps or possessing implement or materials for such purpose, or aiding and abetting such offence.....	"	Fine and imprisonment not exceeding 7 years with or without hard labor.....	"	XXXV	"	"	
Fraudulently removing, or using stamp so removed,—or fraudulently erasing or removing any thing impressed thereon.....	S. C.	Fine not exceeding Rupees 200 for each offence.....	"	XXXVI	"	"	
Commander of vessel not delivering mails,—or carrying letters not "excepted," &c.....	M. or J. P.	Fine not exceeding Rupees 100..	"	XL	"	"	
Commander improperly detaining letter on board.....	"	Fine not exceeding Rupees 100—each letter.....	"	XLI	"	"	
or not receiving mail.....	"	Fine not exceeding Rupees 100..	"	XLIII	"	"	

— Falsely certifying respecting any letter or packet sent by post—or posting same—or allowing same to be done—or aiding or abetting therein.....	"	{	Fine not exceeding Rupees 500 for each offence.....	"	XLVII	"	"
Servants in P. O. fraudulently secreting or opening or making away with letters, &c.....	S. C.	{	Imprisonment with or without hard labor, not exceeding 7 years and fine.....	"	L	"	"
M. or J. P. Fine not exceeding Rupees 500....	M.	{	Fine and imprisonment with or without hard labor not exceeding 2 years.....	"	LII	"	"
Fraudulently or wilfully detaining letters delivered by mistake.....	"	{	Fine not exceeding Rupees 50. .	"	LIII	"	"
— Carriers neglecting to deliver letters, &c. or falsely reporting regarding same.....	"	{	Imprisonment with or without hard labor, not exceeding 2 years, and fine.....	"	LIV	"	"
Servant in P. O. fraudulently appropriating money.....	"	{	Ditto	"	LV	"	"
— Ditto fraudulently altering marks, &c.....	"	{	Ditto	"	LVI	"	"
Ditto fraudulently falsifying document, or aiding in same.....	"	{	Ditto	"	LVII	"	"
— Ditto fraudulently forwarding unstamped letters, &c.....	"	{	Ditto	"		"	"
PRESS.—Printing.							
Possessing without making prescribed declaration.....	S. C.		Fine not exceeding Rs. 5000 and imprisonment not exceeding 2 years	"	VIII	XI	1385
Making false declaration respecting.....	"		Ditto	"	IX	"	"
PREFRAUDATION.							
Before—or other contempt of—any Criminal Court.....	C. C.		Fine not exceeding 50 Rs. commutable if not paid to imprisonment not exceeding one month.....	"	VIII	XIII	1832 24
PRINTING.							
Periodical work without making prescribed declaration.....	S. C.		Fine not exceeding Rs. 500 and imprisonment not exceeding 2 years.	"	III	XI	1835
Or without name of Printer and Publisher.....	"		Ditto	"	VII	"	"
Making false declaration respecting.....	"		Ditto	"	IX	"	"

CRIME.	By whom cognizable.	Punishment.	LAW.				REMARKS.
			Cl.	Section.	Reg. or Act.	Page.	
PRISONERS.							
Offences by—See "Escape."							
Ditto by Convicts under sentence of imprisonment for life, act intended or known to be likely to cause death of any party.....	S. C. {	Death, or transportation for life, or stripes not exceeding 195.	I	I	1845	120	These sentences are subject to confirmation by the Foujdaree Udalt. With regard to Convicts guilty of certain crimes and escaping. See also Act V. of 1858, at p. 322.
Other offences by, after being once previously punished by officer in charge of Jail.		Transportation for life, or stripes not exceeding 195.	II	II	"	"	
PROVISIONS.							
Unwholesome, Sale of Petty cases of—See "Petty offences."	C. C.	D. M. L. Imprisonment not exceeding 6 months, and fine not exceeding Rs. 200, commutable if not paid, to further imprisonment not exceeding 6 months, .....	...	VII	X	1816	See on this subject Proceedings of F. U. 19th Jan. 1847.
More serious cases.							
PUBLISHING.							
Any Periodical work without making prescribed declaration.....	S. C.	Fine not exceeding Rs. 5000 & imprisonment not exceeding 2 years.	"	III	XI	1835	
Or without name of Printer and Publisher.....	"	Ditto	"	VII	"	"	
Making false declaration respecting.	"	Ditto	"	IX	"	"	
RAILWAY.							
Offences on, &c.							
Gravading payment of fare.	J. P. or M.	Fine not exceeding Rupees 50.	"	III	XVIII	1854	For the reason given in the prefatory note, Act X.VIII. of 1854, has not been entered at length in this work. The penal clauses are however abstracted—and it must be noted that in cases punishable by fine only, European British subjects are liable to con-
Entering carriage in motion or riding on step.....	"	Ditto 20.	"	IV	"	....
Riding on engine, tender or van.....	"	Ditto 20.	"	V	"	....
Smoking in Carriage or on premises	"	Ditto 20 and on persistence, removal from pre-	"	VI	"	....
Being intoxicated, or committing any nuisance.....	"	mises and forfeiture of fare	"	VII	"	....
		Do.	"	VII	"	....

For the reason given in the prefatory note, Act XVIII. of 1854, has not been entered at length in this work. The penal clauses are however abstracted—and it must be noted that in cases punishable by fine only, European British subjects are liable to con-

vic-tion by any J. P. or Magistrate, and that fines may by Sec. XXXIV. of the Act be levied by distress, or proportionate im-prisonment in failure thereof, and that pay-ment of fare may be enforced as fines under Section XXXVI.

by Sec. XXXV. Heads and Ameens of Police, may punish under this Act, to the extent of powers conferred on them in petty cases, any offence which under this act is punishable by fine not exceeding 20 Rupees.

Persons guilty of offences specified in Sections XXV, XXVI, XXVII. and XXVIII, may be apprehended without warrant, by any servant, or officer of the Company, or other person called to aid, or by Police officer.

"	Remaining in carriage or room exclusively appropriated for females—by male	VIII	Fine not exceeding Rupees 100, removal, and forfeiture of fare....	"
"	Owner of goods on—giving false account.....	XIV	Fine not exceeding 50 Rs. per ton, or for any parcel not exceeding 1 cwt., and fine not exceeding 20 Rs. for goods less than ton or parcel less than cwt.....	"
"	Carrying dangerous goods on without notice.....	XV	Fine not exceeding Rupees 200	"
"	Obstructing Servant on, in duty.....	XVI	Ditto 50	"
"	Trespassing on Driving, riding, or leading animal upon or across	XVII	Ditto 50 ...	"
"	Company not erecting and maintaining proper gates in certain cases, after notice so to do.....	XVIII	Ditto 50...	"
"	Company neglecting to fence after do.	XIX	Fine not exceeding Rs. 200 each day of neglect.....	"
"	Owner of trespassing, animal ...	XX	Do. do. 50 each day	"
"	Injuring carriage or other property on Not duly opening or shutting gates. Wilful act or omission of act endangering passengers.....	XXI	Fine not exceeding 10 Rupees each animal.....	"
"	S. C.	XXII	Do. Do. not exceeding 50 Rupees.....	"
"	"	XXIII	Do. do.	"
"	"	XXV	Transportation beyond sea for life or imprisonment, with or without labor.....	"
"	"	XXVI	Imprisonment with or without hard labor not exceeding 3 years or fine, or both.....	"
M	Drunkeness, or breach of duty by servant on.....	XXVII	Fine not exceeding Rupees 50	"
"	If duty such that neglect caused danger.....	"	Imprisonment not exceeding 1 year with or without labor; or fine, or both.....	"
"	Any person rashly or negligently doing dangerous act.....	XXVIII	Do. do.	"
"	Company not reporting serious accident to Government within 48 hours Or not furnishing statement of accident, within 14 days after requisition for.....	XXLI	Fine of 50 Rupees per diem during neglect.....	"
"	"	XLII	Do. do	"

Statement of Crimes and Offences, &c.

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			Cl.	Section.	Reg. or Act.	
RAPE.	S. C. {	Death under the Mahomedan law. By practice under Regulations, imprisonment not exceeding se- ven years, and stripes not exceed- ing 195.	7	II	XV	1803 26 { On conviction for "Rape" Session Judges are prohibited from passing sentence, and must refer the trial to the F. U. under Cl. 3, Sec. III. Reg. I. of 1818, which Court either adopts the sentence prescribed in Cl. 7, Sec. II. Reg. XV. of 1803, or any other it may deem proper, not extending to capital punishment, under Cl. 3, Sec. VII. Reg. XV. of 1803. The most severe punishment for which a precedent can be found, is trans- portation for life.
REBELLION.	S. C. { or Special Commis- sion under Act V. of 1841.	Death. ....	....	II	I	1834 180 { All trials for this crime are referable to F. U., and by Sec. III. Reg. I. of 1834, that Court is authorized to pass such mitigated sentence as may appear just and necessary; and by Sec. V. Act V. of 1841, their sen- tence must be reported to the Government, and they must wait three Calendar months before directing it to be carried into exe- cution. See also Acts XI., XIV., XVI., and XVII. of 1837.
RECEIVING STOLEN PRO- PERTY.	Receiving or buying stolen goods, knowing the same to have been stolen, or possessing property ob- tained by theft or robbery, and knowing at a period of time, subse- quent to the possession, that it had been so obtained, without restoring it to the owner, or giving informa- tion to the local Police officer or Magistrate.	Imprisonment with hard labor for not more than two years, with or without stripes not exceeding 150.	4	IV	VI	1822 116 { In all cases of receiving fine may be imposed equal to loss occasioned, under Regulation XVI. of 1850.

Purchasing stolen property knowing at the time that the same had been obtained in the perpetration of robbery by open violence, or of theft attended with aggravating circumstances.	S. C.	Imprisonment for not more than fourteen years, with or without stripes not exceeding 195.....	2	"	"	115
Though the property may not have been so obtained, but simply by theft, if receiver be a person before convicted of the offence of buying or receiving stolen property, or of any heinous crime, or shall appear to be an habitual receiver of stolen property, or a person of notoriously bad character.	"	Ditto	3	"	"	116
Purchasing, receiving or altering the appearance of stolen property offered under suspicious circumstances, without giving information to the Head of the Village or other Police Officer.	C. C.	Imprisonment not exceeding 2 years.....	IX	XIII	1832	174
RECORDS. Stealing, obliterating, injuring, or destroying those of any Court or tribunal, European or Native, Civil or Criminal.	S. C.	Imprisonment with hard labor not exceeding 7 years, and stripes not exceeding 100.	1	II	VIII	1829 152
RESISTANCE. To process of Magistrate. Petty cases.—See "Petty offences" More serious cases.	M	Forfeiture of land, if proprietor in other cases fine according to circumstances.	XVIII XIX	IX	1816	51
By a witness summoned and refusing to attend, or when attending refusing to give evidence, or subscribe his deposition before a Zillah or Criminal Court.	Offr.	Fine not exceeding 500 Rupees, and committal to close custody until he consent to give his evidence and sign his deposition.	II	I	1824	129
By Vagrants in certain cases.	J. P.	Imprisonment with or without labor not exceeding 3 months....	III	XXII	1840	198

By Cl. 2 of this Section, the Criminal Courts have primary cognizance of these offences, without the intervention of the Magistrate.

The fine may be recovered by distraint as in civil process, or with sanction of F. U., may be commuted to imprisonment, or corporal punishment; specific crimes committed in course of such resistance, are liable to be tried and punished by the tribunals which have cognizance of such resistance.—A Collector may under Cl. 11, Sec. III. Reg. IX. of 1822 call upon the Zillah Judge to inflict like penalties on parties so offending before himself.

See "Vagrants."

(By Cl. 2 of this Section, the Criminal Courts have primary cognizance of these offences, without the intervention of the Magistrate.)

The fine may be recovered by distraint as in civil process, or with sanction of F. U., may be committed to imprisonment, or corporal punishment; specific crimes committed in course of such resistance, are liable to be tried and punished by the tribunals which have cognizance of such respectively.—A Collector may under Cl. 11, Sec. III. Reg. IX. of 1822 call upon the Zillah Judge to inflict like penalties on parties so offending before himself.

See "Vagrants."

Statement of Crimes and Offences, &c.

CRIME.	By whom cognizable.	Punishment.	LAW.				REMARKS.
			Cl.	Section.	Reg. or Act	Year	
RETURNING FROM TRANSPORTATION.....	S. C.	Death.....	2	IX	XV	1803	The penalty is mitigable by the F. U.
RIOT.							
See "Assembly—Unlawful."							
ROBBERY—By open violence, i. e.	S. C.	{ Imprisonment with hard labor for 1½ years and stripes not exceeding 195.	3	IV	XV	1803	{ In all cases of robbery, fine may be imposed in addition, equal to loss occasioned, under Act VI. of 1850.
Going forth with any offensive weapon, or in a gang, with or without any offensive weapon with intent to commit robbery, and by force or intimidation robbing, or attempting to rob, any person, in any place whatever; or attacking by open violence, and robbing, or attempting to rob, any dwelling house, or any other receptacle of persons or property; or aiding in, or procuring the same.....							
If attended by active concern in inflicting any personal injury, torture, or cruelty, not occasioning homicide; or in the burning of any dwelling house or houses; or in any other aggravating act; or aiding in or procuring the perpetration of any such aggravated acts.....							
Leaders of gangs, or other heinous offenders convicted of its repetition, or, without such repetition, of such degree of cruelty and violence, or other aggravating criminality as under the discretion allowed by the Mahomedan law in cases of Scaud may be punished with death....	"	{ Transportation for life, and stripes not exceeding 195.....	2	"	"	"	This punishment may be increased by the F. U. or mitigated under Cl. 5, Sec. IV. Reg. XV. of 1863; or on recommendation of S. J. under Cl. 2 and 3, Reg. I. of 1825.
	"	Death.....	"	"	"	"	Trials in which the prisoners are convicted of these offences, must be referred to the F. U.

CRIME.	By whom cognizable.	Punishment.	LAW.			REMARKS.
			Cl.	Section.	Reg. or Act.	
VOLUNTEERS.						
Resisting in execution of duty.....	M. or J.P.	Fine not exceeding Rupees 200, or imprisonment not exceeding 6 months with or without hard labor....		XVIII	X XII I 1857 305	{ For Police powers possessed by Volunteers, in execution of duty, See Sections XVI. and XVII. of this Act at p. 304,
WEIGHTS AND MEASURES.						
See Measures false.....						
WORKS.						
Refusing to perform upon works of irrigation, &c. in Madras Presidency.....	M	Fine not exceeding Rs. 100, or simple imprisonment not exceeding 1 month or both.		II	I 1858 319	{ For the circumstances and conditions under which this labor is exigible, See the Act <i>passim</i> , p. 316.
Refusing when required for Military works, &c.....	"	Fine not exceeding Rs. 50, and in case of non-payment 15 stripes with rattan.		VIII	VI 1858 327	
WOUNDING.						
Slight.....	C. C. & M.	D. M. L. Imprisonment not exceeding 6 months, and fine not exceeding Rs. 200, commutable if not paid to further imprisonment not exceeding 6 months.		VII	X 1816 64	In cases where the above punishment may be considered insufficient, the F. U. may pass any sentence not extending to capital punishment, under Cl. 3, Sec. VII. Reg. XV. of 1803.
Severe.....	S. C.	Imprisonment not exceeding 7 years, and stripes not exceeding 195.....		II	XV 1803 26	
Committed maliciously, but not in manner intended.....	"	Same as if done as intended.....		IV	I 1818 86	

NOTE.—Fines, &c. imposable by Civil Courts have not been included in this list of punishments, such as those leviable on non-production of, or error in, accounts of Curator, under Section XI. Act XIX. of 1841.—Contempt of Sudder Udalut under Section II. Act XV. of 1835, &c. &c.

REGULATION VII. OF 1802.

A Regulation for the establishment of Courts, for the trial of persons charged with crimes.

V. *Session Judges* previous to entering upon the execution of the duties of their office, are to *make* and subscribe the following *declaration*, before the Governor in Council, or such person as he may commission to administer it.

VII. The Mahomedan Law Officers of the Zillah Courts shall also be Mahomedan Law Officers of the Session Courts in the several Zillahs ; and shall not be removable, except on proof, to the satisfaction of the *Sudder Udalut*, that they are incapable ; or have been guilty of misconduct in the performance of their public duty, or of any act of flagrant profligacy in their private conduct.

VIII. The Mahomedan Law Officers of the *Session Courts* previous to entering upon the duties of their office, are to *make* and subscribe the following *declaration* before the Session Court to which they may be respectively attached.

IX. At the expiration of every six months, that is, on the 1st January, and the 1st of July in each year, the Mahomedan Law Officers of the Session Court shall *make* and subscribe the following *declaration*.

Reg. VII. of 1802. This Regulation originally established *Circuit Courts* which were replaced by Session Courts under Act VII. of 1843.

Sec. V. "*Declaration*" in original "*Oath*" modified by Act XXI. of 1837. This and other forms omitted as at hand in every office.

It must be made before a Court of Justice in the Provinces ; which Court must notify the same by letter to the Secretary to Government on the same day. G. O. G. 26th February 1841, 20th March 1849.

Sec. VII. The appointment of these functionaries rests with the *Sudder Udalut*, by Cl. 2, Sec. III. Reg. VII. of 1822.

Sec. IX. They also make a declaration on entering office under Sec. IV. Reg. XII. of 1802, and for misconduct are liable to be dealt with as provided in Sec. XII. of that enactment.

XVI. The prosecutor is to be allowed the option of carrying on the prosecution in person ; or by a vakeel duly appointed ; except in cases in which the Mahomedan law requires the prosecutor to appear in person at the trial of the prisoners. This rule however is not meant to prohibit the Judges causing prosecutors to attend in person, in every case in which their *vivâ voce* evidence shall be deemed necessary ; provided they be not Mahomedan or Hindoo women of a rank and situation in life, which, according to the customs and prejudices of the country, would render it improper to compel them to appear in a court of justice. If the prosecutors or witnesses on a trial shall be women of this description, and their evidence shall be deemed necessary, and the case shall be of such a nature as to admit of its being taken by commission ; the Judges shall not require the attendance of such women, but shall depute persons to take their evidence in the manner prescribed by the Mahomedan law.

XVII. If the attendance of any witness on the part of the prosecutor, or the prisoner, whose evidence the law may not allow to be taken by commission, cannot be procured ; or if any witness cannot be found, the Judges may postpone the trial ; provided, there shall appear to them sufficient cause for so doing. But if the Judges and their Law Officers shall be of opinion, that the evidence of any witness or witnesses, who may be absent, is not necessary ; they shall complete the trial, without the evidence of such witness or witnesses.

XVIII. *First.* All examinations of parties, and witnesses, are to be taken down in the language, and character in which the person examined, may desire to have the same recorded ; and such person, whether party or witness, is to be allowed to read the same when finished ; or, if unable to read, it is to be read to him ; after which, if he admit the record to be correct, he is to affix his name, or mark to it ; and the Judge, Magistrate, or other officer, before whom such examination may have been taken, is to certify the same under his official signature on the original record.

Sec. XVI.—All persons on trial for offences are now allowed counsel, by Act XXXVIII. of 1850.

Sec. XVII. For mode of compelling attendance, See Sec. II. Reg. I. of 1821—see also Sec. XXX. Act VII. of 1843.

A case should not be laid before a Session Court till ready for trial. The Session Judge would be justified in returning it to the Criminal Court.—*F. U.* 27th May 1837.—*C. R.* 484.

Second. In the examination of witnesses, leading questions, suggesting a particular answer, or having a direct tendency to such suggestion, are to be carefully avoided ; and the interrogatories to them, are to be proposed in such general terms, as may bring forth all the information they possess, and lead to a discovery of the truth. With this view, the parties are to be allowed to cross-examine the witnesses ; and the Judge or Criminal Judge shall also cross-examine them, when necessary for the same purpose.

Third. Examinations of the parties and witnesses, besides the name of the person examined, are to specify the name of his, or her father ; and, if a married woman, the name of her husband ; also the religion, caste, profession, and age of the party or witness ; and the village and purgunnah in which they reside.

Fourth. When any stolen property, or instruments of violence stated to have been found upon the prisoners, or in their houses, are produced before the Criminal Judge, or Session Court, the prosecutor, and any witness brought to give evidence thereupon, are to be carefully examined, relative to the identity of such property, or instruments recognized by them ; and the circumstances of the same having been found upon the prisoners, or in their houses. The principle of this rule is to be further kept in view, in instances of circumstantial evidence.

Fifth. With a view to impress upon the witnesses, the necessity of caution and accuracy in delivering their evidence ; it shall be the duty of an officer of the Court, to repeat aloud to them, in the language which they best understand ; the following admonition, immediately, after they shall have been *affirmed* respectively, viz. " In delivering your evidence under the solemn affirmation now administered, you are required to declare the truth, the whole truth, and nothing but the truth. You are carefully to distinguish, what you personally know as an eye-witness, or otherwise, from what you may have heard from others ; and are solemnly bound to answer all questions put to you on the trial before the Court ; without any regard to the prosecutor or prisoner, to the best of your information and belief."

Sixth. The Session Courts are to be careful to notice on their proceedings, any material difference between the depositions of the

same witnesses as given before them, and the Criminal Judges ; and are to question the witnesses thereupon, and record their answers ; but the depositions taken before the Criminal Judges, are not to be read before the Session Court, in the presence of the persons who gave the same ; until they shall have been re-examined before the Session Court.

XIX. On trials for murder, the Law Officers shall deliver their futwah, or law opinions, upon the case, according to the doctrines of Yusuf and Mahomed.

XX. No criminal shall suffer the punishment of mutilation.

XXI. Where a prisoner shall be adjudged in conformity to the futwah of the law officers, to lose two limbs ; instead of being made to undergo such punishment, he shall be imprisoned, and kept to hard labor for fourteen years : and where a prisoner shall be adjudged to lose one limb ; he shall in lieu of such punishment, be imprisoned and kept to hard labor for seven years. The Judges are accordingly directed, whenever any criminal shall be sentenced to suffer mutilation, to commute such punishment for imprisonment, and hard labor for the term above prescribed ; and to issue their warrant to the Criminal Judge for that purpose.

XXII. Where the Session Judge shall disapprove of any part of the proceedings held on a trial, or of the futwah delivered by the law officer, they are not to pass sentence in such cases ; but shall complete the trial, and transmit to the Foujdaree Udalt, a copy of all the proceedings, and the futwah of the Law Officer ; with a separate letter, stating the grounds of their disapproval ; and wait the sentence of that Court.

Sec. XIX. The two great sects of Mahomedans, the Shiabs and Soonies, frequently differ both in interpreting the Koran, and in admitting or rejecting the Traditions ; but the authoritative writings of Abou Huneefah, and his two disciples, Abou Yusuf, and Imam Mahomed, who were Soonies, govern all judicial decisions in India. If a difference of opinion exists between these authorities, judgment is to be given according to the decision in which the master and one of his disciples agree, or if both of the disciples dissent from their master according to that which appears most consonant to reason, or the practice of modern days, or to be founded on the best authority. In judicial decrees, however, the doctrine of Abou Yusuf is considered more sound than that of his fellow disciple—when no precedent can be found, the Mahomedan Judge is directed to abide by the decisions of subsequent lawyers ;—but if these also fail to afford a direct solution of any legal question, it is deemed not improper to resort to judgment, analogy and reason.

Sec. XXI. These sentences are mitigable under Sec. IV. Reg. I. of 1825.

XXIII. The Judges of the Session Courts are to refer to the Mahomedan Law Officers of their respective Courts, all questions on points of law that may arise during the course of any trial; and respecting which no specific rules may have been enacted by the Legislature; and shall regulate their proceedings by the opinions which may be so delivered. Where such opinion shall appear to the Judge contrary to the principles of natural justice, or to the Mahomedan law, they are nevertheless (in cases not provided for by the regulations) to be guided by them; and after completing the trial, and obtaining the futwah of the Law Officer upon the case, they shall, without passing sentence upon it, transmit the proceedings and futwah to the Foujdaree Udalt; with a separate letter, stating their objections to such opinions or futwah: and wait the sentence of that Court.

XXVI. In all cases in which the Session Courts are directed not to pass sentence, the Judges are to accompany the record of the trial, ordered to be transmitted to the Foujdaree Udalt, with a letter containing their opinion on the merits of the case.

XXVII. The Session Courts are to transmit to the Foujdaree Udalt, translates in English, of the proceedings on the trial of all prisoners liable to suffer death; or who may in their opinion be deserving of capital punishment; within ten days after the trial is completed: or as much earlier as from the state of business may be practicable.

Sec. XXIII. The F. U. point out that a Session Judge can "overrule" by a second question, such objections only as may consist of some of the personal exceptions indicated in Clause I, Section II, Reg. VI. of 1829; while the 2d Clause of that Section provides, that if, as in the cases above referred to, the Law Officer objects to the conviction of the prisoner on the ground of the insufficiency to conviction of the testimony itself, or on any other ground separate and distinct from the personal exceptions specified in Clause 1st, the trial shall be referred to the Court of Foujdaree Udalt, and a second futwah of course dispensed with.—*F. U. Pro. 8th April 1837.*—*C. R.* 669.—See also Sec. VIII. Reg. I. of 1825, and Sec. II. Reg. VI. of 1829.

The Mahomedan Law Officer must specify in his Futwah, by their technical designations, the precise crimes of which the prisoners are convicted: and the Session Judge should cause their designation to be entered in *Roman* character in the translation of the Futwah, *F. U.* 3rd June 1851.

Sec. XXVI. For form of letter and instructions relative thereto, See *F. U.* 11th June 1851, and 3rd Sept. 1853.

XXIX. The Sessions Courts are to report to the Foujdaree Udalut, every instance in which it shall appear to them that the Mahomedan Law Officers of their respective Courts have shown incapacity for their offices ; or have been guilty of misconduct in the performance of their duty ; or of any acts of profligacy in their private conduct.

XXX. The Session Courts are to report to the Foujdaree Udalut, every instance in which it shall appear to them that the Criminal Judges have been guilty of neglect or misconduct, in the discharge of their duty. The Courts are also to acquaint the Foujdaree Udalut, whenever the Criminal Judges omit, or refuse to obey their orders.

XXXIII. The Judges are to submit to the Foujdaree Udalut, such rules as may appear to them calculated for the better regulation of the trials of prisoners, the administration of justice, or the Police of the country.

XXXIV. If any person or persons of the Sutar caste, or of any other caste or persuasion within the Company's provinces, shall hereafter put any person to death, on the ground of his or her being versed in, and practising sorcery, such person or persons, on being convicted of the crime, shall be held guilty of murder, and be invariably punished accordingly : and if any person shall either actually form themselves into an assembly, for the purpose of trying any man or woman on a charge of witchcraft, or on any other charge, or shall cause such assemblies to be held ; and any person or persons shall in consequence be put to death ; they shall be considered as accomplices in the murder, and be dealt with accordingly.

XXXVI. The Session Courts are required by Section XXVII. to transmit to the Foujdaree Udalut, English translates of their proceedings, on the trial of all prisoners liable to suffer death ; or who may in their opinion be deserving of capital punishment ; within ten days after the trial is completed ; or as much earlier as from the state of business may be practicable. They are further directed, in the

Sec. XXXIV. This Section virtually prohibits Criminal Courts from taking cognizance of any charge of sorcery.—See C. O. 6th Dec. 1841.

Sec. XXXVI. A translator is attached to each Session Court for the purpose of making these translates.

transmission of trials to the Foujdaree Udalut, to give a preference, as far as practicable, to those trials on which the prisoner or prisoners may be liable to suffer death. The Session Judge before whom the trial may have been held, is in all instances, to examine and attest the translates; and will be held responsible for their accuracy.

XXXVII. The Judges of the Session Courts, are to transmit to the Foujdaree Udalut, a report, containing such observations as they have made, regarding the effect of the present system, for administering the criminal laws, in the prevention and punishment of crimes; and such other matters as they may think deserving the notice of the Court.

XXXVIII. The Session Courts in the transmission of their proceedings to the Foujdaree Udalut, are to be guided by such forms and instructions, as they may receive from that Court.

XXXIX. *First.* No pecuniary compensations, nor sums as damages, shall be adjudged to, or be recoverable by, individuals in any criminal prosecution; nor shall any fines be imposed by any Court of Criminal jurisdiction, save and except to the use of Government: and whenever a fine to the use of Government shall be imposed, the Court, which may pass the sentence, shall at the same time, weighing all the circumstances of the case, fix a definite period of imprisonment to be held as equivalent to the fine; at the expiration of which the persons convicted shall be discharged, although they should have omitted to pay the fine. The imprisonment awarded by the Session Courts under this Section, as an equivalent for fines imposed by them, shall be temporary in all cases, and not for life; and their sentences shall be executed without reference to the Foujdaree Udalut.

Second. Whenever the Law Officers of the Session Courts shall declare prisoners liable to deyut, or pecuniary fines of any kind, for any other acts than murder, and the several descriptions of homicide specified in Section XV.; the Session Courts shall, at their discretion, commute such deyut, or fines, to imprisonment for such period as they

Sec. XXXVII. See F. U. 21st August 1843, Para. 10.

Sec. XXXIX. Modified by Act XXX. of 1845—which allows all or part of fine to be adjudged to injured party.

may think adequate to the offence : and their sentences in such instances shall be carried into execution without reference to the Foujdaree Udalt, if for temporary imprisonment : or referred to that Court, if for imprisonment for life ; which shall at its discretion confirm the said sentences, or mitigate, or entirely remit the imprisonment awarded.

Third. Nothing contained in this Section, shall be construed so as to prohibit the restitution to the lawful owners, of stolen property, recovered and produced before the Magistrates, Criminal, or Session Judges : nor to restrict the Criminal Courts from adjudging a reimbursement of costs, actually incurred upon a prosecution before them, by either of the parties thereto, in particular instances, wherein they may consider such reimbursement just and equitable.

XLI. *First.* The Judges of the Session Courts shall, as soon as possible after the close of any trial referrible to the Foujdaree Udalt, and with no further delay than may be necessary to translate the proceedings held thereupon, transmit to the Court of Foujdaree Udalt, a complete and exact *translation* of the original record of all proceedings held, and papers received, relative to such trial ; with an English letter, stating their opinion on the evidence, and on the guilt or innocence of the prisoners. The record to be so transmitted is to be authenticated by the signature of the Judge, and is to include the whole of the proceedings held before the Session Court, with every examination, exhibit, or material paper of whatever denomination, taken by, or delivered to that Court. The whole of the proceedings and papers received from the Criminal Judge, upon the case referred, are also to be annexed to, and transmitted with, the proceedings of the Session Court : but any variations between the depositions of the witnesses before the Criminal Judge, and Session Court, are to be carefully noticed on the proceedings of the latter, as directed in Clause sixth, Section XVIII. ; and any confessions of

Clause 3, Sec. XXXIX. By Act XVI. of 1850—Value of stolen property, may be levied as a fine on the thief, &c.

Sec. XLI. *English letter.*—In respect to the nature and contents of this letter, See F. U. 11th June 1851, and 3rd Sept. 1853.

"Translation" in the original, "*counterpart*," Translates were *then* made in the F. U. now each Session Court has a translator to make them.

the prisoners before the Criminal Judge, any inquest taken in cases of homicide ; or, any other evidence appearing on the proceedings of the Criminal Judge, are to be entered with the necessary proofs, on the proceedings of the Session Court.

REGULATION VIII. OF 1802.

A Regulation for establishing a Foujdaree Udalut, or Chief Criminal Court, for the trial of criminal cases in the last resort.

I. In order that an uniformity of decision may be preserved throughout the several *Session Courts*; and for the better regulation of whatever relates to criminal cases, and the police of the country, the following rules have been enacted.

II. The Foujdaree Udalut or superior Criminal Court shall be held at Fort St. George.

IV. The Court shall meet once in every week; or as often as the state of business may require; and a regular diary shall be kept of their proceedings.

V. The Court shall have a Register—who shall be styled Register to the Foujdaree Udalut.

VI. The Register previous to entering upon the duties of his office shall *make* and subscribe before the Foujdaree Udalut, the following *Declaration*.

VII. The Head Cauzy and the two Musties, previous to enter-

Sec. II. Foujdaree Udalut—the constitution of the Court, after various modifications, was finally settled as at present by Sec. III. Reg. III. of 1807—which enacts that “the Courts of Sudder and Foujdaree Udalut, shall consist of a Chief Judge, being a Member of the Council, but not the Governor, or Commander in Chief, and of three Puisne Judges to be selected from among the Company’s Covenanted Servants,—and the Governor in Council is empowered by Sec. IV. Reg. III. of 1825, to appoint additional Judges whenever he may deem it expedient.”

Sec. IV. The practice here prescribed has been modified by Sec. XXXIII—XXXV. Act VII. of 1843.

Sec. VI. “*Declaration*” in original “*Oath*”—form omitted. The Judges of the Court on entering office are required by Sec. V. Reg. IV. of 1806, to make declarations similar to those of Civil and Session Judges.

ing upon the duties of their offices, and on the 1st of January, and 1st of July in each year, shall *make* and subscribe *declarations* similar to those prescribed for the Law Officers of the Session Courts.

VIII. The Court is empowered and directed to take cognizance of all matters, relating to the administration of justice in criminal cases, and the Police of the country; and to submit to the Governor in Council, such suggestions regarding them, as it may deem advisable.

IX. The sentences of the Court shall be regulated by the Mahomedan law; excepting in cases in which a deviation from it may be expressly authorized by any enactment of the Legislature.

X. In trials for murder, the distinctions made by the Imaums, Yusuf and Mahomed, and by Huneefah, as to the mode of committing murder, shall not be adhered to by the Foujdaree Udalut; but the intention of the criminal, either evidently or fairly inferrible from the nature and circumstances of the case, and not the manner or instrument of perpetration (except as evidence of the intent) shall constitute the rule for determining the punishment. It is further hereby declared, that wilful homicide by poison, or by drowning; when the intention of poisoning or drowning may be evident, is included in the above rule; and that in all such cases, the Foujdaree Udalut (whatever may be the Mahomedan law on the case) are to sentence the prisoner to suffer death; provided they judge him fully convicted of express murder.

XI. In all cases referred under Section XV. Regulation VII. of 1802, to the Foujdaree Udalut, that Court, after considering the

Sec. IX. Under Act I. of 1840, the Court does not now take a *futwah* from its Law Officers, but guided by the record of its accumulated experience, and by the directions contained in this and other parts of the regulations on the subject of Mahomedan law, has upon it the responsibility of acting in accordance with the provisions of the preceding and succeeding Sections.

The Law Officers of the Sudder Court continue to be appointed and removed by the Governor in Council. Charges of misconduct against them are to be prosecuted under the provisions of Act XIII. of 1843. The Law Officers of the new Zillah Courts are declared by Section LI. Act VII. of 1843, to be subject to the same rules as were the Law Officers of the Provincial Courts, who by Clause 2nd, Section III. Reg. VII. of 1822, are placed under the authority of the Sudder Court. The Subordinate Courts established under Regulations I. and II. and VII. and VIII. of 1827, have no Law Officers attached to them.—See Sec. VII. Reg. I. and Sec. V. Reg. VII. of 1827.

Sec. X. "*Yusuf and Mahomed*" See Note on Sec. XIX. Reg. VII. of 1802.

whole of the proceedings on the case, are either to require further evidence, if they see occasion ; or, to pass such final sentence as may appear consonant to justice, and conformable to the Mahomedan law ; with the exceptions and modifications authorised by the regulations.

XIII. The Register, within three days after passing of the final sentence, or sooner if practicable, shall transmit a copy of it under the seal of the Foujdaree Udalut, and attested with his official signature, to the Judge of the Session Court : who is immediately to issue a warrant to the Criminal Judge, to cause the sentence to be carried into execution. The Criminal Judge, upon the receipt, of the warrant, shall cause the sentence to be executed without delay ; and return the warrant to the Session Court, with an endorsement, attested with his official seal and signature, certifying the manner in which the sentence has been executed. All warrants so returned, are to remain with the Session Court ; excepting warrants for the infliction of capital punishment, which are to be forwarded by the Judges to the Foujdaree Udalut.

XIV. Where a criminal who may be sentenced to suffer death, shall appear to the Foujdaree Udalut to be a proper object for mercy, they shall submit his case to the Governor in Council ; and, according to the circumstances of it, either recommend a pardon to be granted to him ; or such commutation of the punishment, as to the Court may seem proper.

XV. In every case of express murder, wherein the crime may appear to the Court of Foujdaree Udalut to have been fully established against the prisoner ; but the prisoner be not liable, under the Mahomedan law, to suffer death by kissaas ; solely on the ground of the prisoner's being father or mother, grandfather or grandmother, or other ancestor of the slain ; or of the heir of the slain ; or one of the heirs of the slain, being the child or grandchild, or other

Sec. XIV. This appears applicable only to cases in which sentence has actually been passed and in which on subsequent consideration it is desired to make any alteration. As the Foujdaree Udalut is the only tribunal competent to pass a sentence of death—the enactment corresponds with Sec. XIV. Reg. VIII. of 1803, of the Bengal Code. And in connection therewith, the following construction is important :—The Nizamut Udalut are competent to mitigate a sentence on judicial grounds apparent on the record, and strictly connected with the case and not extraneous. If the ground of mitigation be personal to the prisoner, the prerogative of mercy rests with Government.—*Beng. Const.* 390.—There was a doubt on this point which has been removed by Act XVIII. of 1855.

descendant of the prisoner ; or of the slain having been the slave of the prisoner ; or of any other person ; or a slave appropriated for the service of the public ; or on any similar ground of personal distinction, and exception from the general rules of natural justice ; the Court of Foujdaree Udalut, (provided they see no alleviating circumstances in the case,) shall sentence him to suffer death, as if liable to kissaas ; or to suffer death by seeasut, as authorized by the Mahomedan law in all cases of express murder, under the discretion vested in the Magistrate, with regard to this principle of punishment, for the ends of public justice.

XVI. It shall not justify any prisoner convicted of wilful homicide, that he or she was desired by the party slain, to put him or her to death ; and in the event of the prisoner being convicted of the fact to the satisfaction of the Foujdaree Udalut, and of their seeing no alleviating circumstances in the case, they shall sentence him or her to suffer death, under the Mahomedan law ; which in this instance also, although it withholds kissaas, gives a full latitude to the Magistrate in the discretionary punishment of tazeer or seeasut.

XVII. If any person convicted of express murder, be supposed not liable to suffer death, under the Mahomedan law, on the ground of one or more of his accomplices being exempted from kissaas, under any of the circumstances recited in Sections XV. and XVI. or on any similar ground of exemption ; the Court of Foujdaree Udalut, shall, notwithstanding, sentence the prisoner to suffer death, if in their judgment he be duly convicted, and there shall appear no alleviating circumstances in the case. And wherever the accomplice in an express murder, though not the principal perpetrator of the murder, shall appear to the Foujdaree Udalut fully convicted, and deserving of death, they are authorized, under the discretion given by the Mahomedan law in such cases, to sentence the prisoner to suffer death.

XVIII. The Foujdaree Udalut are authorized, under the discretion in this respect allowed by the Mahomedan law, to order any prisoner sentenced to imprisonment for life : to be transported to some place beyond sea.

Sec. XVIII. All such are now directed to be so transported unless there be special reason to the contrary, by Act XIV. of 1844, Europeans and Americans are exempted from transportation by Act XXIV. of 1855.

XX. In cases of a heinous nature, such as murder ; gang-robbery ; arson ; and the like ; wherein the crime may be known to have been committed by several persons, the principal of whom may not have been apprehended or convicted ; if, on the representation of the Zillah Magistrates, Criminal, or Session Judges, it shall appear to the Foujdaree Udalt, that an offer of pardon to one, or more of the supposed accessaries, on condition of their making a full disclosure of every circumstance within their knowledge, relative to the commission of the crime, and the several persons concerned in it, may lead to the apprehension or conviction of the principal offender or offenders : the Court *may authorize such offer of pardon* : and, on the condition of it being fulfilled, the Court of Foujdaree Udalt are to confirm it by a written certificate, or testimonial, under the signature of their Register, and the seal of the Court ; to be delivered to the party, or parties, for his, or their security : as far as regards the act, or acts therein referred to.

XXI. The Session and Criminal Judges, and the several Zillah Magistrates, are to report to the Foujdaree Udalt, whenever it may appear to them expedient to tender an offer of pardon, for the purpose stated in the foregoing section ; communicating at the same time, all the information they may possess respecting the circumstances of the case ; as well as the measures taken to apprehend or convict the offenders, for whose apprehension or conviction, the proposed pardon may be recommended.

XXIII. All guards of whatever description, having had in charge convicts who may have escaped, and who may appear on the Magistrate's enquiry to have been guilty of wilful neglect ; are to be immediately dismissed from the public service ; and should any conniv-

Sec. XX. "*May authorise*" originally—submit the case to Governor in Council—but thus modified by Sec. XII. Reg. XIII. of 1832.

Sec. XXI. Pardon not to be offered to a principal.—C. O. F. U. 13th May 1824.

Form of tender C. O. F. U. 3rd April 1828—conditional pardon cannot be offered in cases amounting only to misdemeanor.—F. U., 7th Sept. 1835.

Application for permission to tender must be made direct to F. U. 27th Feb. 1832.

Sec. XXIII. Extended by Sec. VII. Reg. I. of 1810, to guards having had charge of prisoners whether before or after conviction.

See also C. O. F. U. 10th April 1844, No. 156, explaining that Peons *properly so called* are alone punishable for such offences under Sec. XI. Reg. XIII. of 1832. When committed by Military guards they are to be treated as directed in Reg. I. of 1810.

ance or further criminality appear against them, are to be committed or held to bail, according to the circumstances of the case, for trial before the Session Court; that, on conviction, they may receive the punishment which the law directs.

XXIV. In cases of disobedience, neglect, or false return, by a Criminal Judge, to any process, rule, or order, of a Session Court the Session Courts are directed to make the same reports to the Court of Foujdaree Udalut, as the Civil Courts are required to make to the Sudder Udalut, by Section XV., Regulation IV. of 1802. The Court of Foujdaree Udalut is further authorized, and directed to proceed upon reports from the Session Courts, of neglect, or misconduct, by the Criminal Judges, made in pursuance of Section XXX. Regulation VII. of 1802, in the same manner, as the Court of Sudder Udalut is authorized and directed by Section XXXIX. Regulation V. of 1802, to proceed upon similar reports to that Court, of neglect or misconduct, on the part of the Judges of the Civil and Subordinate Courts; and in all cases wherein a Covenanted servant of the Company, employed in any of the Criminal Courts, or in any office of Police, may appear to the Foujdaree Udalut to have been guilty of neglect of duty, or of other misconduct, not expressly provided for by the regulations, that Court is either to report the same to the Governor in Council, or to advise and admonish the party, as the case may require, under the provisions contained in Section XXXIX. Regulation V. of 1802; the whole of which is declared applicable to such cases.

Sec. XXIV. *Same report.*—That is to state the facts of the case. For *course of procedure* when it may be deemed necessary to make such report to Government, see Act XXXVIII. of 1850.

REGULATION XXII. OF 1802.

A Regulation for the guidance of the Courts of Justice, in cases of a difference of opinion, on the meaning and construction of the Regulations.

II. In all instances wherein a precept issued by a Session Court, to a Criminal Judge or Magistrate, shall appear to such Judge or Magistrate to be contrary to, or unwarranted by the existing Regulations, he is authorized to state to the Session Court, in what respect he considers the precept to be in deviation from the Regulations; and suspend execution till receipt of a second precept, in reply to his objections. But if the second precept of the Session Court, in reply to the objections of the Criminal Judge or Magistrate, shall confirm its first precept in whole or in part, and shall require the Criminal Judge or Magistrate to execute the same without further reference, he shall immediately comply with such requisition. In case however, the second precept of the Session Court should not satisfy the Criminal Judge or Magistrate, that the Regulations have been rightly construed by the Session Court, he is at liberty, at the same time that he certifies the execution of the order of the Session Court, to request that it will transmit copies of the precepts to him, and his returns thereto, with such other papers as may be necessary for the information of the circumstances of the case, to the Court of Foujdaree Udalut, and the Session Court shall accordingly transmit such papers, as requested, without any unnecessary delay. Provided, nevertheless, that nothing in this Regulation be understood to authorize any Criminal Judge or Magistrate to question the propriety of any order issued by a Session Court, in cases clearly left to the discretion and judgment of the Session Court by the Regulations: the reference to it, and eventually to the Court of Foujdaree Udalut, meant to be authorized by this Regulation, being confined to cases in which the

sense of the Regulations, from a difference of construction, or otherwise, may appear doubtful and uncertain.

III. In all instances wherein a reference to the Court of Foujdaree Udalut may be made under the preceding rule, the determination of that Court, which is empowered to prescribe the forms and conduct to be observed by the Session and Criminal Courts, and the Zillah Magistrates, in all cases provided for by the Regulations, agreeably to their construction thereof, is to be held final and conclusive.

REGULATION XV. OF 1803.

A Regulation for determining the punishment to be adjudged by the Criminal Courts of Judicature, in cases wherein a discretion is left by the Mahomedan Law ; for defining the crime and punishment of robbery by open violence ; and for declaring what convicts shall be hereafter liable to transportation, or to banishment, as well as the punishment of such as may return from transportation, or escape from confinement, during the period of their sentences.

I. The Mahomedan Law vests in the Sovereign and his delegates the power of sentencing criminals to suffer discretionary punishment (under the legal denomination of tazeer, acoobut and seeasut) in three cases,—*First*, in the case of offences for which no specific penalty of hud or kissaas has been provided by the law, being for the most part offences not of a heinous nature, the punishment of which

Sec. I. This Regulation is nearly identical with Reg. LIII. of 1803 of the Bengal Code. Its preamble is a valuable exposition—as far as it goes—of the principles of the Mahomedan Law—and points out with much clearness those defects in its practice, which it is the object of the Legislature to remedy.

Mahomedan Law.—The principles of penal justice comprised in the Mahomedan Code are classed under three heads. *First*.—Kissaas or retaliation, including deyut or the price of blood. *Second*.—Hudood or prescribed penalties. *Third*.—Tazeer and seeasut, or discretionary correction and punishment. Under the *first* head are included offences against the person, called jenayat, as wounding, homicide, and murder. Under the *second*, robbery, surika-i-kobra ; theft, surika-i soghra ; drinking wine, shoorb ; adultery, zina ; and slander of the same, kuzuf. The *third* head comprises all crimes not expressly falling within the laws of kissaas and hud, as well as such as, though comprehended within the general provisions of those laws are specially exempted from their operation by some doubt or legal defect. *Shoo-bah* :—the offences which fall under the heads of kissaas and hud are more defined, and in general specifically provided for, and will be noticed in their proper places ; but the principles of tazeer and seeasut are of a more general nature. *Tazeer* in its primitive sense means prohibition or restriction, and is legally defined to be an infliction—*Okoobut*—undetermined by law, on account of the right of God, as well as for the rights of individuals ; or, in other

is left discretionary, below the measure of the specific penalties, for the correction and amendment of the offender.—*Secondly*, for crimes within the specific provisions of hud and kissaas ; when the proof of the commission of such crimes may not be such as the law requires for a judgment of the specific penalties, though sufficient to establish a strong presumption of guilt ; or although the proof be such as is required for a sentence of hud or kissaas, when such sentence is barred by remission of the claim to retaliation in cases of kissaas, or by any of the special exceptions and scrupulous distinctions, which (under the general denomination of Shoobah) are considered by the prevalent authorities of Mahomedan law to bar a judgment for the specific penalties of that law.—*Thirdly*, for heinous crimes in a high degree injurious to society ; and particularly for repeated offences of this description ; which for the ends of public justice (as expressed by the term seeasut) may appear to require exemplary punishment beyond the prescribed penalties ; and with respect to crimes of this description, an unlimited discretion extending to capital punishment is admitted to have been left by the Mahomedan law, to the sover-

words, for the ends of public, as well as private justice ; and it is declared to be incurred by any offence whether of word or deed, not subject to a specific legal penalty. *Seeasut*:—literally protection—is a word used to express the exemplary punishment extending even to death, which may be considered necessary to protect the community from atrocious and irclaimable offenders. These terms include both objects proposed to be effected by punishment—correction and discipline ; individuals are punished and reformed, others are deterred from committing the like offence, and the well being of the community is improved.

In the case of offences against the community, the evidence of the prosecutor is admissible, or the offender may be brought to trial and punishment without any complaint from the party injured : but the Judge alone is capable of remitting the punishment incurred. But in case of offences against individuals, the plaintiff must himself or by deputy conduct the prosecution, and though incompetent to bear testimony in his own cause, is at liberty to forgive the offence. In cases of the latter description, absent witnesses may appoint persons to give evidence for them ; or in defect of proof the accused party may be put upon his oath. Tazeer though allowed as a private right, cannot be inflicted without a judicial sentence ; and though for the full legal conviction of a Mahomedan, the evidence of witnesses of any other persuasion is not strictly admissible, nor that of women, if the prosecution be of a public nature ; yet tazeer and seeasut may in all cases be inflicted upon strong presumption, whether arising from the credible testimony of men, or women, of whatever religion, or from circumstances which warrant a strong presumption of guilt, as well as the confession of the accused ; and it is expressly declared that a conviction for tazeer may be founded on the depositions of the prosecutor and one credible male witness, in public cases ; or in those of a private nature, upon the testimony of two men, or one man and two women. The punishments which may be awarded upon a conviction for tazeer include private and public reprimand and exposure, (tushceer) a temporary sequestration of property, stripes, imprisonment, and even capital punishment, according to the rank and situation of the offender, or the nature of the offence.

eign authority of every country in which that law prevails, as well as to its judiciary delegates.—In the adjudication of punishments under the discretion thus allowed by the Mahomedan law, especially in the second of three cases above stated, it has been observed, that the futwahs of the Mahomedan Law Officers of the Criminal Courts are often governed by a consideration of the degree of proof against the party accused; rather than the degree of guilt and criminality of the act, established against him; and the penalties awarded by them in such cases are either adjudged on insufficient proof of guilt, or are inadequate to the heinousness of the offence of which the prisoner is convicted. It is therefore necessary that provision be made for determining the punishment to be adjudged by the Criminal Courts in all cases wherein a discretion is left by the Mahomedan law, as well to guard against the infliction of any punishment without sufficient evidence of guilt; as to maintain the uniform and adequate punishment of offenders when convicted, according to the criminality of the offences established against them.—It is further requisite to define the crime and punishment of robbery by open violence, under the continued prevalence of this atrocious crime, which is frequently attended with murder, or with maiming or other personal injury, as well as with the crime of arson or wilful burning of houses, and other aggravating circumstances; and for the punishment of which the specific provisions of the Mahomedan law, under the distinctions admitted to except offenders from the stated penalties, as well as from a distinction in the received construction of that law, between highway robbery at a distance from any inhabited place, and robberies not committed on or near the highway, or committed in or near any place inhabited, have been found altogether inadequate.—In the case of murder committed by one or more robbers on the highway (kuttaool-tureek) at a distance from any inhabited place, the whole of the principals and accomplices are subject, by the Mahomedan Law (under its specific provision of hud, or stated punishment by the right of God, being in other words exemplary punishment inflicted for the prevention of crimes, which is the end of public justice) to a sentence of death: the same punishment in this instance is inflicted on the whole band, in consideration of each of them being aiding and abetting to the others; and this principle is allowed by some of the Mahomedan lawyers, as obviously applicable to all murders and other

crimes committed by open violence; and by a number of persons, assisting and supporting each other, whether on the highway remote from, or near to an inhabited place; or within a place inhabited; or in any other place whatever: but according to the prevailing doctrines this provision of the Mahomedan law, as well as the provisions it contains for the punishment of highway robbery without murder, by amputation of two limbs, cannot be applied to murders or robberies, committed in any other place than on or near the highway, at a distance from any place inhabited; and even with respect to these, it is held that the specific punishment is barred by any one of the band of robbers being under age; or a lunatic; or a relation within the prohibited degrees, of the person robbed or murdered; or by the person robbed or murdered not being a fixed resident, under the permanent protection of the Mūssulman Government; or with respect to robberies, by one of the robbers having a joint interest in the property plundered; or such property not being considered in legal custody, with respect to any one of the robbers; or lastly, with regard to the separate punishment of each robber, if his share of the property taken shall not amount in value to ten dirms; being according to the received calculation of the dirm, somewhat less than three Sicca Rupees.—These distinctions are evidently repugnant to the principles of public and equal justice; and it is highly requisite that provision be made for the more certain and adequate punishment of the heinous crimes of murder and robbery, as well as of robbery with or without any other acts of aggravated criminality, wheresoever the same may be committed. Moreover, the rules at present in force for the transportation of convicts who escape from confinement and are re-apprehended, as well as of other convicts sentenced to short periods of imprisonments, have been found open to objection; and it is judged advisable that none except persons convicted of heinous offences, and sentenced to be imprisoned for life, shall be hereafter transported beyond sea; substituting banishment from the district in which the offender's place of abode may be situated, with hard labor in the public works, for convicts sentenced to limited imprisonment, and in consideration of the nature of their offences deemed proper objects of this mode of punishment.

II. *First*—In all trials before the Session Courts wherein the Mahomedan Law Officers of those Courts may consider the prisoner

liable to discretionary punishment, (tazeer, acoobut, or seeasut,) their futwah shall declare the same generally, with a statement of the grounds on which the prisoner is adjudged subject to discretionary punishment; leaving the measure of punishment, in such cases, to be determined by the Session Judge, before whom the trial may be held; or by the Court of Foujdaree Udalut, under the provisions contained in this or any other regulation.

Second.—If the crime, for which the prisoner is declared liable to discretionary punishment in such cases, shall have been specially provided for by any subsisting regulation, denouncing the penalty to be adjudged on proof of the commission of such crime; and the Judge before whom the trial may be held, shall consider the crime to have been established against the prisoner; whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, he shall sentence the prisoner to suffer the punishment for such crime prescribed by the regulations; or, if the case be referable under the regulations for the sentence of the Foujdaree Udalut, shall transmit the trial with his opinion thereupon to that Court.

Third.—If the crime for which the prisoner is declared liable to discretionary punishment shall not have been specifically provided for by any regulation denouncing the penalty to be adjudged on proof of the commission of it; but be such as would have subjected the prisoner to the specific penalty of hud or kissaas, provided by the Mahomedan law, if he had been convicted by full legal evidence; and the futwah of the Law Officer shall declare him liable to discretionary punishment, in consequence of the evidence not being such as the Mahomedan law requires for a sentence of hud or kissaas, though sufficient to convict the prisoner on strong presumptive proof (ghalib-oo-zun;) the Judge before whom the trial may be held, provided he concur in the conviction of the prisoner, shall require the Law Officer to declare, by a second futwah, to what specific punishment (of hud or kissaas) the prisoner would have been liable under the Mahomedan law if he had been convicted by full legal evidence; and shall proceed thereupon to pass sentence according to such second futwah; commuting the punishment if any regulation require it; or if the case be referable for the sentence of the Foujdaree Udalut, shall transmit the trial with his opinion to that Court.

Fourth. The Judge before whom the trial may be held shall proceed in like manner as directed in the preceding clause, when the crime of which the prisoner is convicted (whether upon full legal evidence or upon strong presumptive proof) may not have been specifically provided for by any regulation, but would subject the prisoner to the specific penalty of hud or kissaas, provided by the Mahomedan law, if the sentence against him for such penalty were not barred by some special exception, or scrupulous distinction, (shoo-bah), not affecting the nature and criminality of the offence, and evidently repugnant to the principles of equal justice, in consequence of which bar to adjudgment for the specific penalty, the prisoner is declared liable to discretionary punishment. In such cases the Law Officer is to declare by a second futwah, to what punishment the prisoner would have been liable under the Mahomedan law, for the crime committed by him, if the special exception or distinction by which hud or kissaas is barred in the particular case, had not existed; and the Judge is to proceed thereupon as directed in the preceding clause.

Fifth. Nothing in this section however shall be construed as authorizing a sentence of discretionary punishment exceeding or equal to the specific punishment prescribed by the Mahomedan law, in cases where such specific penalty is remitted or mitigated by the provisions of the Mahomedan law, in consideration of circumstances which alter the nature and diminish the criminality of the offence; unless such enhanced or equal punishment for the crime in question, shall have been expressly denounced by some Regulation in modification of the Mahomedan law.

Sixth. Nor shall any part of the present Regulation be considered to authorize the infliction of any punishment whatever, upon suspicion only (termed by the Mahomedan lawyers, *whum*, *sheck*, *Shoo-*

Sec. II. *Clause 6th.*—*Nor on strong suspicion.*—"Tohmut" "Goomann," or under which, if the Session Judge concur—prisoner must be released, or held to security.—*F. U. 14th January 1835, V. M. 9.*

Until.—The time of detention in default of security must be specified, and not exceed three years.—*Cl. 1, Sec. X. Reg. VI. of 1827.*

Law Officers when they consider that there exists sufficient evidence to convict on strong presumptive proof must deliver their findings in the most appropriate of the technical terms specified in this Clause.—*F. U. 14th Dec. 1850.*

bah Zaeeifah) when the evidence against the prisoner is undeserving of credit, or the presumption of his guilt arising from credible testimony or circumstantial evidence, is weak, and does not amount to the degree of strong presumption, held sufficient for conviction, recognized as such in the Mahomedan law under the denomination of ghaliib-co-rae, akbeeri-co-rae, and Soobah-i quvee or rhudeed. When the Judge before whom a prisoner may be tried, shall not consider him convicted on such presumptive proof, or on the evidence of credible witnesses, or on his own confession, he shall not sentence the prisoner to suffer any punishment, whatever may be the futwah of the Law Officer. But in cases of strong suspicion, though not amounting to conviction, as well as upon proof of notorious bad character, the Session Judge may direct the Criminal Judge to detain the prisoner in custody until he shall give sufficient security for his future good behaviour and appearance when required.

Seventh.—If the crime of which a prisoner is convicted, and for which he is declared liable to discretionary punishment, shall neither have been specially provided for by any regulation, nor by any stated penalty in the Mahomedan law; and the Judge before whom the trial may be held shall consider the crime to have been established against the prisoner and deserving of punishment, he shall after consulting with the Law Officer, respecting the measure of punishment which under the discretion left by the law, and the whole of the circumstances of the case should be inflicted upon the prisoner, adjudge the prisoner to suffer such punishment as may appear adequate to his guilt and the nature of the offence of which he is convicted, not exceeding corporal punishment of 195 stripes, and imprisonment with hard labor for the term of seven years. If in any instance this degree of punishment appear to the Session Judge insufficient in a case not specifically provided for by the Mahomedan law or the regulations, he shall transmit the trial with his sentiments thereupon to the Court of Foujdaree Udalt.

III. *First.* Any person or persons, who shall in the day, or in the night, go forth with any offensive weapon, or in any gang, with or without any offensive weapon, with the criminal intent of committing robbery, and shall by force or intimidation, rob or attempt to rob, any person or persons, on or near a highway; or on a river, lake or other water; or in or near a city, town, or village, or in any

other place whatever; or shall attack by open violence and rob or attempt to rob, any dwelling house or other house or building; or any tent, boat or other receptacle of persons or property; shall be deemed guilty of the crime of robbery by open violence (denominated in the Mahomedan law *Saraca-i-Kobra*, and more commonly *Shub-Khonee* or *Dacoity*); and on due conviction thereof whether by free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, shall be adjudged to suffer such of the penalties declared in the next Section, as may be applicable to the case, viz. according as the robbery may be with or without homicide, wounding, maiming, or other personal injuries; or with or without other circumstances of aggravation.

Second.—In such cases of robbery by open violence the punishment of the offenders shall not depend upon the amount value, or description of the property plundered, nor shall any of the circumstances noticed in the preamble to this regulation as barring a sentence of hud under the Mahomedan law in cases of highway robbery, nor any other provision in that law, be hereafter allowed to operate against the punishment of persons convicted of highway robbery, or of any robbery by open violence as defined in the preceding clause of this Section; or of murder or other acts of criminality committed in the prosecution of such robbery; or of an intent to rob: provided as in all other cases of criminal conviction, and punishment, that the party convicted be adult and of sound understanding, so as to render him a proper object of punishment.

Clause 2.—Adult and of sound understanding.—A most important rule is here briefly, and somewhat incidentally and vaguely given. By the law of England, infants under the age of discretion are not punished by any criminal prosecution whatever; but the age of discretion is matter of judgment, and may and does vary in particular cases—provided that under seven there can be no discretion, and that above fourteen the idea of non-discretion cannot be entertained as a consequence of age. The Mahomedan law says a person becomes an adult on attaining the age of puberty, or on the completion of his eighteenth year if a boy, or her seventeenth if a girl. This is the opinion of Huneefah. But the two disciples maintain that upon either boy or girl attaining their fifteenth year, they are to be declared adult. Others say that nineteen years are required in a boy. The earliest period of puberty in a boy is held to be twelve, and a girl nine years; when a boy or girl approaches the age of puberty, and they declare themselves adult, their declaration must be credited and they become subject to all the rules affecting adults. "*Hedaya*" vol. 3, p. 482. The Law Officers of the Courts appear, however, generally to have considered the age of the party without regard to physical qualifications—which in effect is equivalent to English practice. In regard to questions arising upon soundness of understanding the law is now laid down in Act IV. of 1849.

Third.—In all such cases of conviction of robbery by open violence, or of murder or other criminal acts, done in prosecution of such robbery, or of intent to rob, if the Law Officer of the Session Court declare the prisoner liable to discretionary punishment, the Judge before whom the trial may be held, is to proceed as directed in Clause Second, Section II. of this Regulation. If the Law Officer declare the prisoner liable to suffer death under the Mahomedan law, the Judge is to refer the trial to the Court of Foujdaree Udalut, with his opinion as directed by the existing Regulations; or if the Law Officer declare the prisoner liable to amputation of limb under the Mahomedan law, the Judge is either to refer the trial for the sentence of the Foujdaree Udalut, or to commute the punishment and pass sentence against the prisoner in conformity to the ensuing Section; according as the degree of punishment to be adjudged, or any provision in the Regulations, may require a reference of the trial for the sentence of the Foujdaree Udalut, or otherwise.

IV. *First.*—All persons convicted of being the heads or leaders of a gang of robbers by whom a murder may have been committed, or of having been actively concerned in the perpetration of such murder; or of any murder committed in the prosecution of robbery or an intent to rob; or of having been present, aiding and abetting when such murder was committed; or though not present of having procured and caused by hire, counsel, or command, the perpetration of such murder, in pursuance of a preconcerted plan to commit the same, or to commit robbery; shall be adjudged to suffer death.

Second.—All persons convicted of being the heads or leaders of a gang of robbers by whom any person may have been wounded, maimed, burnt, or subjected to other personal injury, torture, or cruelty, not occasioning homicide, or by whom a dwelling house or houses may have been set on fire, or any other criminal and aggravating act committed in the prosecution of a robbery, or intent to rob, as well as persons convicted of having been actively concerned in any of the acts aforesaid, done in prosecution of a robbery or intent to rob; or of having been present, aiding and abetting when any such acts were committed; or though not present, of having procured and caused by hire, counsel, or command, the perpetration of any such acts in pursuance of a preconcerted plan to commit the same, or to commit robbery, shall be judged to suffer imprisonment and

transportation for life: moreover any leaders of gangs, or other heinous offenders convicted of a repetition of the crime described in this clause; or without such repetition, of a degree of cruelty, violence, or other aggravating criminality, which under the discretion allowed by the Mahomedan law in cases of seasut, may be punishable with death, and which may appear to the Court of Foujdaree Udalut to render such heinous offenders deserving of capital punishment, shall be liable to a sentence of death.

Third.—All persons convicted of being the heads or leaders of a gang of robbers by whom a robbery may have been committed without homicide, and without any personal injury, or other act of aggravation as specified in the preceding clause; or by whom any violent attempt shall have been made to commit such robbery though not effected; as well as persons convicted of having been actively concerned in any such robbery or attempt to rob; or having been present, aiding and abetting at such robbery, or attempt to rob; or though not present, of having procured and caused by hire, counsel, or command, the perpetration of such robbery, or attempt to rob, in pursuance of a preconcerted plan for this purpose; shall be adjudged to suffer imprisonment and hard labor for the period of fourteen years.—The Court of Foujdaree Udalut are further empowered to extend their sentences to imprisonment and transportation for life, upon any leaders of gangs, or other offenders, convicted of a repetition of the crime described in this clause; or without such repetition, if from proof of the notorious bad character of the party convicted, or on consideration of any other circumstance appearing upon the trial to aggravate the guilt of any particular prisoner, and evince the danger of his future depredations, if set at liberty, it shall in the judgment of that Court, be just and necessary to inflict a more severe punishment than imprisonment and labor for the term of fourteen years.

Fourth.—Persons convicted of going forth with a gang of robbers for the purpose of committing robbery, but apprehended before they have committed such, or have made any violent attempt for the pur-

Cl. 3, Sec. IV. Corporal punishment not exceeding 195 lashes, may be added under Cl. 4, Sec. II. Reg. I. of 1825, and the Session Judge may obtain mitigation under Sec. III. Reg. I. of 1825.

pose, so as to bring them within the provision contained in the preceding clause, shall be adjudged to suffer imprisonment and hard labor for such period not exceeding seven years, as the circumstances of the case may appear to merit.

Fifth.—Provided with respect to all the crimes, and degrees of punishment, specified in the several clauses of this Section, if from any extenuating circumstances which may appear on the trial to the Court of Foujdaree Udalut, the stated punishment shall in any particular instance appear too severe, or if on consideration of the number of prisoners convicted of the same crime, and of any discriminative circumstances with respect to one or more of them, the example shall appear sufficient for the ends of justice, without extending the full degree of the prescribed punishment to the whole of the prisoners convicted, it shall be competent to the Court of Foujdaree Udalut, to mitigate the sentence, in such cases, as may be deemed just and expedient.

Sixth.—The Session Judges are also to report to the Foujdaree Udalut the case of any prisoner or prisoners, who may appear proper objects of mercy and pardon.

V. *First.*—No part of the preceding Section shall be considered applicable to secret theft or larceny, without open violence, (Surucai-sogra;) whether accompanied with burglary (Nucub-Zunce,) or simple theft from the person or house unaccompanied with any aggravating circumstances. In such cases the Mahomedan law, with the modifications of it in the existing Regulations, and the rules contained in Section II. of this Regulation when the prisoner may be declared liable to discretionary punishment, shall govern the sentences of the Session Courts, as well as of the Foujdaree Udalut in any cases referred to that Court.

Second.—But in the case of a burglarious entry, or any entry by night into a dwelling house or other house, or into a tent, boat, or other receptacle of persons and property, for the purpose of committing theft therein, although such entry may have been made in the first instance without any open violence, if any person or persons shall, after having entered, be guilty of murdering, wounding, maim-

ing, torturing, or otherwise doing personal injury to any person or persons, or of any other criminal act of violence, done in the prosecution of the original intention to commit theft; the parties convicted, as principals or accomplices, of such murder, wounding, maiming or other acts of criminality and violence done in the prosecution of theft, shall be liable to the same punishment as has been declared in the preceding Section, for the same acts of criminality committed in prosecution of robbery by open violence; and the several provisions contained in that Section, as well as in Section III. of this Regulation, are accordingly declared equally applicable to the cases herein specified.

VI. *First*.—The Session Court shall transmit to the Court of Foujdaree Udalut as heretofore, all trials in which the prisoner or prisoners may be convicted and liable to a sentence of perpetual imprisonment, or death; as well as in all cases, wherein the Judges of the Session Courts may disapprove the futwah given by their Law Officers, and may not have been expressly authorized by this, or any other Regulation to pass sentence, notwithstanding such futwah, either for the punishment of the prisoner, or for his acquittal, or discharge, either with or without security.

Second.—In trials referable to the Foujdaree Udalut, if the Session Judge disapprove the futwah given by his Law Officer, or if the prisoner or prisoners convicted, or any of the prisoners convicted on the same trial, be liable to a sentence of death, the Judge shall not pass any sentence, (except for the acquittal and discharge of any prisoners not convicted), but shall transmit the trial with his opinion thereupon for the sentence of the Foujdaree Udalut. If the Session Judge concur with his Law Officer in the conviction of the prisoner or prisoners, and none of them be liable to a sentence of death, the Judge shall pass sentence on the prisoner or prisoners. But such sentences, in all trials referable to the Foujdaree Udalut shall not be deemed final, nor shall any warrant be issued for carrying the same into execution, until they be confirmed by the Court of Foujdaree Udalut—moreover, whenever the trial of a principal in any crime may be referred for the sentence or confirmation of the Foujdaree Udalut, whether under the present, or any other Regulation; and an accomplice in the same crime shall have been brought on trial and convicted at the same time with the principal, the Session Courts shall

not carry into execution their sentence upon the accomplice so convicted, but shall wait the confirmation, or final sentence of the Foujdaree Udalut, as well respecting the accomplice as the principal: provided however that this restriction be not understood to prevent the Judges of the Session Courts from directing the release of any prisoners, charged as accomplices, whom they may acquit of such charge in concurrence with their Law Officer, notwithstanding the reference of the trial of the principal to the Court of Foujdaree Udalut.

Third.—Whenever the Judges of the Session Courts may refer to the Court of Foujdaree Udalut the trial of a prisoner or prisoners whom they may consider proper objects of capital punishment under Clause second of Section IV. of this Regulation, or of imprisonment for life under Clause third of that Section, or of a mitigation of punishment under Clause fifth of that Section, or of an extension, mitigation, or remission of punishment in any case whatever, they shall be careful to notice the same in their letters accompanying the trials referred, and shall state at large the grounds of their judgment whether for or against the prisoner, with such of the facts and circumstances in evidence upon the trial, as may be necessary to explain the case of the prisoner, whose punishment is proposed to be extended, mitigated, or remitted.

VII. *Third.*—In trials referred to the Foujdaree Udalut under Clause seventh, Section II. of this Regulation, viz., when the crime of which the prisoner is convicted, and for which he is declared liable to discretionary punishment, shall not have been specifically provided for either by the Regulations, or by any stated penalty in the Mahomedan law, the Judges of the Foujdaree Udalut, provided the offence be punishable at discretion under the Mahomedan law, and they shall be satisfied of the conviction of the prisoner, are authorized to pass such sentence upon the prisoner, not extending to capital punishment, as they may deem adequate to the crime of which he is convicted, and consonant to the general principles of justice, on due consideration of all the circumstances of the case. The

See. VII. Cl. 3. For precedents of practice under this Clause, see Nos. 835, 836, 839, 840 in the *Civ. Rem.* p. 419 *et seq.*

The Foujdaree Udalut are competent to fine to an indefinite extent, commutable to a limited period of imprisonment, F. U. 25th Sept. 1835, and so Nizamut Udalut,—*Reports*, Vol. II. p. 305.

Court shall at the same time propose to the Governor in Council a *Regulation* to fix and declare the specific punishment of any crimes of magnitude, which may be found not to have been specifically provided for either by the Mahomedan law or by the Regulations, and which may appear to call for an express denunciation of the penalty to be incurred by committing the same.

Fourth.—The provisions contained in Sections III. IV. and V. of this Regulation, shall govern the sentences of the Court of Foujdaree Udalut in the cases therein specified, and the Judges of the Court are authorized to adjudge the stated punishment, provided that the prisoner or prisoners have been convicted of the crimes, incurring the stated penalties, either on free and voluntary confession, or on the testimony of credible witnesses, or on strong circumstantial evidence (sufficient to establish ghali buzun or violent presumption of GUILT) and provided the Judges of the Foujdaree Udalut shall see no cause to disapprove such conviction of the prisoner or prisoners, or to mitigate, or remit the specified punishment.

Fifth.—In cases not incurring capital punishment, where a prisoner may be declared by the futwah of the Law Officer of the Session Court to have been convicted, and the Session Judge, before whom the trial has been held, shall concur in considering the guilt of the prisoner to have been proved, and shall consider the prisoner a proper object of the punishment to which he is liable under the Mahomedan law or the Regulations, and shall pass sentence upon him accordingly (as required in such cases by Clause second of Section VI. of this Regulation), and the sentence passed upon him by the Session Judge shall appear to the Foujdaree Udalut to be conformable to the Regulations, it shall be competent to the Judges of the Foujdaree Udalut to confirm the sentence so passed upon the prisoner by the Session Court, and found conformable to the Regulations, without a revision of the proceedings held upon the trial, except in cases which for any special reason, or purpose of justice, may appear to require it; provided that in all cases wherein the prisoner or prisoners, or any prisoner included in a trial referred to the Foujdaree Udalut, may be liable to capital punishment; as well

as all other cases wherein the Session Judge, before whom the trial is held, may not concur in the conviction of the prisoner declared by the futwah of his Law Officer, or may not consider the prisoner, though convicted, a proper object of the punishment to which he is liable by the Mahomedan law and Regulations ; or in which the sentence passed by the Session Court may not appear conformable to the Regulations ; or in which any special reason or purpose of justice, may appear to require a revision of the trial ; the Judges of the Foujdaree Udalut shall revise and consider the whole of the proceedings held upon the trial, and shall pass sentence accordingly.

VIII. *Third.*—In the cases of convicts sentenced to confinement for life, whom the Foujdaree Udalut may not consider proper objects of transportation beyond sea ; as well as in all cases of convicts sentenced to imprisonment for a limited period ; the Court by which the sentence is passed, if it deem the same proper on consideration of the prisoner's offence, may adjudge him to be banished during the period of his sentence, from the district in which his place of abode is situated ; and to be kept to hard labor on the public roads or other public works, in any other district, to which he may be removed by order of the Foujdaree Udalut.

Fourth.—The Criminal Judges on the 1st January and 1st of July of each year, or at any other period when the same may be required by the Foujdaree Udalut shall transmit to that Court, a list of the convicts in their respective jails who may have been sentenced to transportation beyond sea, or to banishment from the district in which the offenders may have resided, under each of the two preceding clauses ; specifying in such lists the names, ages, crimes, and sentences, of the several convicts ; and in the list of those sentenced to banishment, the district in which they may have usually resided before they were brought to trial.

IX. *Second.*—Any convicts under sentence of transportation for life, who may be transported to any place beyond sea, after the promulgation of this Regulation, and shall escape from such place of transportation, and return without permission, to any part of the Con-

Sec. VIII. CL 3.—“ *Not proper objects*”—for special reasons to be recorded. Act XIV. of 1844.

For punishment of Convicts under sentence for life, see Act XVIII. of 1815.

pany's territory under the Presidency of Fort St. George, shall, (notice of this penalty being duly made to the convict at the time of passing sentence on him) on conviction thereof to the satisfaction of the Foujdaree Udalut, and if no circumstances appear to that Court to render such convict an object of mercy, be adjudged to suffer death.

XI. *First.*—In the cases of suspicion or bad character referred to in Clause sixth, Section II. of this Regulation, wherein the Session Courts may direct the Criminal Judges to detain prisoners in custody until they give sufficient security for their future good behaviour, and appearance when required; as well as in any similar cases wherein the like directions may be given by the Court of Foujdaree Udalut, if any prisoner shall have remained in confinement for a year, or any longer period, under inability to give the security required; and the execution of a Moochulka (penal engagement) by the prisoner for his future good conduct without security, may on consideration of the circumstances of the case, and the prisoner's behaviour during his confinement, appear to the Criminal Judge sufficient to provide for the object intended, he shall *make an immediate report of the case with his opinion for the orders of the Court which may have required the prisoner to furnish security previously to his release.*

Second.—In all cases of such reports being made by the Criminal Judges to the Session Courts, the Judges of the latter are to call the prisoner before them, and to examine the proceedings held upon his trial, as far as may be necessary to ascertain the grounds on which the prisoner may have been required to find security, after which, and duly considering the circumstances stated in the Criminal Judge's Report, if they shall concur with the latter in opinion that the prisoner ought to be released on his Moochulka without security, they are to direct the same accordingly.

Third.—In the exercise of this discretion, the Criminal Judges and Session Courts will of course give due consideration to the nature of the crime, of which the prisoner may have been convicted or suspected; his general character as far as ascertainable, and the consequent risk to be apprehended from his being released without security for his future good conduct.

REGULATION I. OF 1805.

A Regulation for regulating the Revenue derivable from Salt, in the Territories subject to the Presidency of Fort St. George.

VIII. *First.*—It shall not be lawful for any proprietor of land in the territories subject to the Presidency of Fort Saint George, whether Malguzari, or Lakheraj, nor for any Zemindar, Merasidar, Farmer, Officer, or other person holding lands in farm, or in Amani, immediately of Government, or otherwise ; nor for the managers of land belonging to minors, or disqualified landholders, to establish any Salt Pans, or works of any description, for the manufacture of Salt, excepting on the account, or with the permission of Government ; any such Proprietor, Zemindar, Meerasidar, Farmer, Officer, Ameen, or Manager, who shall establish, or connive at establishing Salt Pans, or other works for the manufacture of salt, in the lands subject to his charge, contrary to the spirit of this regulation, shall be adjudged to pay a fine of 3,500 Rupees.

Second.—One-third of the amount of the fines, which may be levied under this section, shall be paid to the person or persons who shall have furnished the information ; another third to the Collectors, their Assistants, or Officers, by whom the offence shall have been detected and reported ; and the remainder to Government.

XIII. Proprietors, Farmers, and Renters of Land, Managers of Estates, Ameens and Tahsildars are required to give immediate infor-

Reg. I. of 1805.—The prohibitory and penal clauses of this enactment have alone been given, as necessary to the present work. Originally the prescribed penalties were recoverable only by suits in the Courts of Udawlut. They are so now in the Criminal Courts under Reg. V. of 1831, or before the Magistrates under Act XVII. of 1840 and in petty cases by Heads of Police under Act VII. of 1852.

The Provinces of Malabar and Canara were originally exempted, but the provisions of this Regulation were extended to them by Reg. II. of 1807, and Reg. V. of 1831.

mation to the officers of the Salt Agent, to the nearest Magistrate, or to the Collector, of any salt that may be made in, or imported into, the lands of which they may respectively have charge, under pain of being liable to Government for a penalty of 25 per cent. on the value of salt proved to have been so made or imported, with their knowledge or connivance; exclusively of the penalty of confiscation, should the salt belong to them. The Magistrates and Collector shall cause to be detained any such salt of which they may receive information, if they should believe it liable to confiscation, and cause it to be delivered to the Collector, or nearest public officer of the Salt Department.

XIV. *First.*—With a view the more effectually to restrain the illicit manufacture, sale, transit, import, or export of salt, it is required of all Magistrates, Officers of Police, Collectors of Revenue and of Customs, Master Attendants and Beach Masters, to assist in the suppression of illicit dealings in salt, as far as they shall be found to prevail within the limits of their respective jurisdictions.

Second.—All officers of Police shall comply with such applications as may be made to them by officers attached to the Salt Department, by Collectors of Revenue or Customs, or other Government officers, for assistance in the seizure of salt illegally manufactured, sold, conveyed, imported or transported; or in the event of a public officer himself detecting such illicit practices, he shall report the case for the information of his immediate superior, detaining the salt till he receives orders.

Third.—If any officer of Police shall receive information of salt, not made in the territories subject to this Presidency being illegally imported, or of salt of any description being transported without the proper Rowannahs, or of any salt being manufactured on account of individuals, otherwise than provided for by this Regulation, whether at the Company's Salt Pans, or at Salt Pans established by individuals for their own account; such Police Officer shall transmit immediate notice thereof to the nearest Magistrate, or Collector: the Police Officer shall then wait the orders either of the Magistrate, or of the Collector, and assist in the seizure of the salt, under those orders; and shall not, in the first instance seize the salt; nor shall they in any instance of their own authority, seize salt, excepting when the salt may not be accompa-

nied by a proper Rowannah—in this case only they are to detain it, sending immediate notice to the Magistrate, Collector, or Superintendent; Police Officers acting contrary to these injunctions shall be liable to dismissal and prosecution.

Fourth. Magistrates, Collectors, and other public officers of Government, are empowered to direct the seizure of salt which they may have sufficient grounds to believe to have been illegally manufactured, sold, imported, or transported; in all cases, the earliest practicable notice shall be communicated to the Board of Revenue.

Fifth. All salt seized under this Regulation shall be delivered over as soon as may be practicable, to the nearest Collector, or to such other person as the Board of Revenue may direct.

Sixth. Police Officers and other subordinate officers making seizures of salt, shall transmit without delay, and in the most expeditious manner, a report of the circumstance of the seizure to their immediate superiors; if they omit or unnecessarily delay to do so, they shall be liable to prosecution for damages by the proprietor, and to dismissal from office, and to fine.

XV. Officers of Government by whom salt may be attached on just grounds, shall be entitled to a reward of 33 per cent. on the net proceeds of the salt when sold, or on the estimated average value of the salt. If the seizure be made on just grounds by the subordinate Officers of Magistrates, Collectors, &c. or in consequence of correct information furnished by them, such subordinate Officer shall be entitled to a reward of 25 per cent. on the average value of the salt seized.

XVI. If salt shall have been seized by the Officers, or under the orders, of any Magistrate, or Collector, and previously to the receipt of orders for the final confiscation it be found that the salt was seized on erroneous information, and is not liable to confiscation; the Magistrates and Collectors, &c. are hereby empowered to release the salt; communicating the circumstances immediately to the Board of Revenue for their information.

XVIII. Any person engaging in any clandestine or fraudulent transaction, with respect to Rowannahs, or passes; smuggling, or conniving at the smuggling of salt; making, purchasing, obtaining, selling or weighing, salt in an illicit manner, shall, on conviction, besides being fined at the discretion of the Criminal Judge according to the circumstances of the case, be liable to permanent exclusion from the service of the Company.

REGULATION I. OF 1810.

* * * *for extending and explaining the rules contained in Section XXIII., Regulation VII. of 1802.*

* * *

VII. *First.* Provision is made, by Section XXIII. Regulation VII. of 1802, for the punishment of guards, in charge of convicts who may have escaped ; and in certain cases, for committing or holding such guards to bail, for trial before the Session Court. This provision is extended to guards having had charge of prisoners who may have escaped from their custody, whether before, or after conviction ; but shall not be considered applicable to Military guards, from any Provincial Battalion (subject to Military law) or from any regular corps of the Army. Whenever it shall appear to a Magistrate, that a guard furnished by a provincial Battalion, or by any regular Corps of the Army, has been guilty of wilful neglect in guarding the prisoners under his charge ; or in conniving at the escape, or the attempt to escape, of any prisoner ; or of any other act of a criminal nature in the discharge of his duty, the Magistrate shall cause the offender to be delivered over to the Officer Commanding the Provincial Battalion, or the detachment, to which he may belong, with a charge in writing : that he may be tried, and punished, on conviction, by a Court Martial.

Second. The mode of proceeding against Military guards directed in the preceding Clause, shall be observed, with respect to any other offence, involving a breach of Military duty, and properly cognizable by Courts Martial, but shall not be held applicable to any Criminal charge against such guards, or other sepoys, whether belonging to any provincial Battalion, or a regular Corps of the Army, which may not involve a breach of Military duty, and the cognizance of which may therefore appertain to the Civil Courts.

REGULATION VI. OF 1811.

A Regulation to provide more effectually for the punishment of perjury, subornation of perjury, and forgery.

III. *First*.—If any person amenable to the jurisdiction of a Session Court, shall be convicted before that Court, whether by his free

Sec. III. Clause I.—Security is not demandable in any of these cases.—*F. U. 29th March 1837.*

Perjury.—Upon the subject of prosecutions for perjury, the Court of F. U. in issuing their C. O. 31st January 1814, have observed—“It certainly is desirable that prosecutions for perjury should not be instituted in cases wherein there may be reason to doubt that the offence has been wilful and complete. The frequency with which the Natives of India are charged with perjury, and the generally unsuccessful termination of the prosecution for this crime, show, in the strongest light, the expediency of using the most studious caution in selecting cases for prosecution. The escape of any notorious offender must be supposed to encourage the commission of the crime : while, to subject to ignominious punishment any individual who may have incurred the penalties of the law, from inadvertence in a point on which the opinions of Europeans and Natives may be at variance, rather than by a wilful and corrupt violation of truth, must be a matter of deep regret. The punishment of other offences, not capital, admits of reform ; the culprit expiates his offence, and returns to society : but the man who has once been branded as a liar must ever hide his face. Such at least is the obvious intention of the law, and it should be carried into effect in the same spirit. No person should be made the object of a prosecution for perjury, who has not been cautioned against committing himself on oath, and has, subsequently, persisted in maintaining falsehood for truth. The frequency of prosecutions for perjury, without this precaution, must make the Courts of Judicature a terror to the honest witness, by exhibiting instances of men, of respectability and character, being hurried to gaol, or compelled to give bail for their appearance to take their trial, on an ignominious charge, without having had an opportunity of explaining what might, perhaps, be only a slight inadvertence or misapprehension. The want of this precaution must, on the other hand, give confidence to the liar, by facilitating his escape from punishment, since it is essential to conviction that the perjury should be deliberate and intentional ; and this must be difficult of proof where the witness has not been warned of his danger. Even in cases where a witness has, on two occasions, given glaringly contradictory and irreconcilable testimony, on oath, regarding one and the same transaction, he should be warned of the difference between his statements, and be allowed to offer any explanation, with a view to reconcile them, before he is committed to take his trial for perjury. It is, indeed, by the most patient preliminary proceedings alone, that a beneficial operation can be given to the legislative enactments against this crime ; and a resort to them in any case, wherein it may be possible to give an honest interpretation to the deposition of a witness, must be productive of injurious consequences.

No Indictment for perjury can be maintained on a voluntary affidavit.

and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, of the crime of wilful perjury, or of subornation of perjury, or of forgery, as defined in the following Section of this Regulation; and shall, in consequence, by the futwah of the Mahomedan Law Officer of the Session Court, be declared liable to discretionary punishment (*tazeer, ookoobut* or *seca-sut*,) the Session Judge, before whom the trial may be held, provided he concur in the conviction of the prisoner, and shall consider him a proper object of corporal punishment, shall sentence the offender to receive 150 lashes with a cat-o'-nine tails, and to be imprisoned and kept to hard labor for a period not less than four, and not more than seven years. If it appear proper to banish the prisoner, during the period of his confinement, from the district in which he may have resided, he will be further liable to such sentence, in pursuance of Clause third, of Section VIII, Regulation XV. of 1803; provided, however, that if the Session Judge, on consideration of the circumstances of the case, and the prisoner's situation, shall deem the punishment above specified too severe, he shall submit the trial, with his sentiments, to the Foujdaree Udalt, for the final sentence of that Court.

Second.—If the Session Judge differ in opinion from the law officer of that Court, with respect to the conviction of the prisoner, he shall not pass any sentence, but shall transmit his own and the Criminal Judge's proceedings, with his sentiments, in a letter to accompany them, for the sentence of the Court of Foujdaree Udalt.

Third.—In cases of reference to the Foujdaree Udalt, that Court shall, if the prisoner be convicted, sentence him to any punishment deemed proper, not exceeding that specified in Clause first of this Section.

IV. *First.*—The crime of wilful perjury, subjecting the offender, on conviction, to the punishment stated in the foregoing Section, is

"Submit the trial," &c.—This is to be as prescribed by Sec. V. Reg. I. of 1825.

It is discretionary with the Judge to award stripes—*F. U. 28th January 1827.—C. R. 89.*

Mitigation need only be recommended when four years are deemed too great a punishment.

Sec. III. *Clause 3.*—Refusal of *F. U.* to initiate does not render necessary infliction of stripes—*F. U. 28th January 1837.—C. R. No. 199 p. 89.*

Sec. IV. *Clause 1.*—A witness deposing falsely, on a point material to the issue of a judicial proceeding, may be convicted of perjury, although such witness may not have been cited to prove the said point.—*F. U. 14th March 1837.—C. R. 204.*

hereby declared to be, giving intentionally and deliberately, before a Court of Judicature, Magistrate, or other authorized public officer, a false deposition, upon oath, or under a solemn affirmation, relative to some judicial proceeding, civil or criminal, and upon a point material to the issue thereof.

Second.—Subornation of perjury punishable under the preceding Section, is declared to be the crime of procuring, or causing another person to commit the offence of perjury as above described.

Third.—The penalties for forgery, stated in Section III, are meant to include all fraudulent and injurious fabrications, or alterations of written deeds, or of written or printed papers, of whatever description; as well as all counterfeit seals or signatures thereto; and the illicit imitation of any public stamp, or stamped paper, established by government. It is further hereby declared that persons convicted of procuring, or causing, any such forgery, will be liable to the same punishment, as those convicted of having actually committed the forgery, at the instigation of others.

V. Persons charged with the crime of perjury, subornation of perjury or forgery, as defined in the preceding Section, and appear-

Sec. IV. A successor in office may prosecute for perjury, &c., committed before his predecessor.—*F. U. 14th March, 1837.—C. R. 203.*

As to perjury assignable on two contradictory depositions—See Reg. III. of 1826—and as to Forgery of Coin. Sec. V. Reg. II, of 1822, mere fraudulent uttering is punishable under Cl. 7, Sec. II. Reg. XV. of 1803.—*F. U. 4th October, 1836.*

An attempt to Suborn is termed by the law of England "Tampering."—Such act was ruled by the Judges on reference to be a misdemeanor—See Russell, *Vol. 1, p. 47.* Under the Mahomedan Law it would be declared liable to *Ookoobut*; as would also an attempt to suppress evidence.

"All who endeavor to stifle the truth, and prevent the due execution of justice are highly punishable: and therefore the dissuading, or attempting to dissuade a witness from giving evidence against a person indicated, is an offence at common law though the persuasion should not succeed—Russell, *Vol. 1, p. 183.*

Clause 3.—Fabrication of a Rahdaroc, or pass on sale of Cattle, not forgery.—*F. U. 21st October, 1836 — C. R. 33.*

Sec. V. *Criminal Judge.*—The word in this and the following Section was originally "Magistrate," this alteration is virtually rendered necessary by Reg. X. of 1816, as the *F. U.* remarked, when explaining the principles on which they issued.—*G. O. 12th Feb. 1834.*

"So long as the offices of Judge and Magistrate were united in the same person, there existed no difficulty in executing this law. But in 1816 when they were disunited, an oversight was evidently committed, in not transferring to the Criminal Judge, who then became the exclusive Committing Officer, the power of committal which Sections V. and VI. Reg. VI. of 1811, still contemplate as vested in the Magistrate."

ing to the Civil or Criminal Courts by whom they may be ordered to be brought to trial before the Session Courts, to have been guilty of the charge, shall not be admitted to bail, (notwithstanding any thing declared to the contrary in any existing regulation) unless specially authorized by the Court under whose directions they are committed for trial. But nothing herein contained shall be construed to preclude the Criminal Judge from admitting to bail, persons committed by him for trial, on charges preferred originally before him, in cases cognizable by him under the Regulations, without any order from a Civil or Criminal Court for the commitment of such persons for trial before the Session Court.

VI. Whenever a witness giving evidence before a Session Court

The Criminal Judge therefore is the authority, who as explained in the above quoted C. O., is, notwithstanding Sec. VIII. Reg. X. of 1816, to commit for trial those parties regarding whom he may be so instructed by the superior Courts therein mentioned. He is also the officer with whom under Sec. VIII. Reg. III. of 1802, as declared in XXIX. of IX. of 1816, rests the power of taking primary cognizance of all charges of perjury or subornation of perjury, made by litigant parties in Civil suits, and by Sec. VIII. Reg. II. of 1822, in criminal trials also—while Sec. III. Reg. VIII. of 1829, particularises other tribunals and authorities, who are at liberty to bring before him parties who may apparently have been guilty of perjury or subornation of perjury before themselves, and to suggest their committal. No charge of perjury can in short be committed except by the Criminal Judge—to him must be forwarded all parties whom it may be desired to prosecute. The superior tribunals mentioned in C. O. 12th February 1834 may direct the committal, in cases presented for commitment by the other authorities mentioned, he is at liberty to exercise his discretion, and dispose of them under the general regulations: or in other words, he *must* commit cases of perjury, subornation, or forgery sent to him for the purpose by the Sudder or Foujdare Udalt, or by the Civil or Session Courts, and he *may* commit those falling under his own cognizance; he *may* also commit cases of perjury and subornation, brought under his view to that end, by other Civil and Criminal Courts, and by authorities specified in Sec. III. Reg. VIII. of 1829. He cannot however take primary cognizance of cases of forgery, unless sent to him by the above mentioned superior authorities, or falling under his own view—in all other cases of that crime, the proceedings must originate with the Magistrate.

The Magistrate is the proper authority to take primary cognizance of all cases of forgery not falling under the judicial view of the Zillah Courts, *F. U. 21th July 1837, C. R. No. 851, p. 430*; and when a Court of Appeal may see reason to believe that a witness in his examination before the Court from which the Appeal is made, has committed perjury, it is the duty of the Appeal Court to take steps to bring the said witness to trial without reference to the opinion of the lower Court, as to there being sufficient grounds for putting the party on his trial: it being improper either to apply for, or be guided by, such opinion.—*F. U. 14th March 1837, C. R. 206.*

Sec. VI. This enactment is now apparently superfluous; as originally applied to the Circuit Courts, it was intended to prevent delay. Under it, as well as under the preceding

may be considered by the Judge of that Court to be guilty of wilful perjury ; or whenever a person attending a Session Court may be considered by the Judge of that Court to be guilty of subornation of perjury, or of forgery, in any trial or matter depending before the Court ; it shall be competent to the Session Judge to direct the Criminal Judge to commit the person so charged for immediate trial before the Session Court. Provided that nothing in this Section shall be considered to authorize the conviction or punishment of any person, charged with the crimes specified, until he shall have been regularly put upon his trial ; or until any material evidence which he may have to offer in his defence shall have been received and duly considered.

Section, a Session Judge is competent to direct the Criminal Judge to commit for trial, any party who may appear to have been guilty in his Court of the crimes specified.

The following precept for the committal of witnesses under these circumstances was approved by the F. U. under date 7th September 1835, and *mutatis mutandis*, may be useful as a model :—

Extract Proceedings Session Court ————— in Case No. ———

It appearing to the Session Judge that the 1st witness A. B., and 2d witness C., have been guilty of perjury in swearing (or solemnly affirming) that they saw the 2d prisoner D, and the 3d prisoner E, hanging up the body of the deceased F. about noon on—— Ordered that the said two witnesses be sent as prisoners to the Subordinate Judge (or Principal Sudder Amoen) together with the documents and depositions which disprove the allegations of the said two prisoners, as to their having been then and there so situated, and that he be by precept required to commit the said two witnesses, to take their trial for the said perjury before the Session Court.

REGULATION IX. OF 1816.

A Regulation for reducing into one Regulation certain rules which have been passed regarding the office of the Zillah Magistrate, and for modifying and defining his powers.

III. The Collectors of the several Zillahs shall hold the office of Magistrate of their respective Zillahs; previous to entering upon the execution of the duties of the office, they shall make and subscribe a declaration according to the Form prescribed in No. 1 of the Appendix to this Regulation, before the Governor in Council, or any person whom he may commission to administer it.

IV. The Assistants to the Collectors of Zillahs shall be Assistants to the Magistrates of the Zillahs.

V. The Zillah Magistrates are authorized to employ their Assistants in the execution of such part of their prescribed duties, as from

Reg. IX. *Magistrate*.—The following observations on the mode of discharging the duties of a Magistrate in this country, seem important and useful:—

A Magistrate should reserve to himself the general control of the Police, and have a general knowledge of the manner in which the business is conducted by his subordinates, to enable him to interfere, whenever he may, for any special cause, deem it necessary. It is important that the native establishment, as well as the people, should see that the chief control is retained in his hands, and that he is equally anxious in regard to every part of his duties. To effect this, he must limit himself to matters of real importance, leaving the details, under control on his own part, in the hands of his subordinates, and not doing business which can be efficiently performed by them.—*Beng. C. O. No. 151 of Vol. 2.*

Sec. III. *Form No. 1.*—This form, as well as those referred to as Nos. 2, 3, 4, 5, 6, 7, 8, 10, in the subsequent clauses of this Regulation, being in constant use in every Magistrate's office, it has not been thought necessary to insert them in an Appendix.

This declaration must be made before some Court of Justice in the Provinces.

Secs. IV. and VI. The extent and nature of the powers which may under these provisions be delegated to Assistant Magistrates, are laid down in C. O. 20th August 1821, 30th January 1824, and 7th June 1834 A.

the extent of their general business or other cause they may be unable to give due attention to themselves, provided, that previous to any such Assistant entering upon the exercise of judicial authority, he shall make and subscribe before the Magistrate a declaration according to the Form prescribed in No. 2 of the Appendix to this Regulation.

VI. The Assistants to the Zillah Magistrates, who may have made and subscribed the declaration prescribed by this Regulation, are authorized to exercise the judicial power vested in the Magistrates by this Regulation, as far as may be necessary to enable them to perform the duties committed to them respectively, by the Magistrates with whom they are stationed.

VII. The Magistrates shall use a circular seal one inch and three quarters in diameter, bearing the following inscription, in the Persian character and language, and also in the character and language of the district.

“The seal of the Magistrate of the Zillah of ———.” The seal of each Magistrate is to remain in the custody of the Magistrate.

VIII. The special jurisdiction of the Magistrates of the several Zillahs is to extend throughout the districts included in the Zillahs in which they are respectively stationed: Provided however, that the Magistrates be not considered to have any jurisdiction or authority whatever in the town of Madraspatnam, or any places adjacent, within the limits of the jurisdiction of the Supreme Court of Judicature at Madras.

IX. It shall be the duty of the Magistrate to apprehend murder-

Sec. IX. *Crimes and Misdemeanors.*—By Reg. IX. of 1822, and VII. of 1828, and Act XXXVI. of 1837, Collectors, their Subordinates, and Assistants, have primary cognizance of cases of corrupt exaction, unauthorized collections, embezzlement of public property, and falsification of, or other injury to Revenue accounts, or other accounts relating to any public property.

Murder.—Magistrates should publicly notify that persons aware of the discovery of a dead body bearing signs of violence, are bound to give information to the Police, and that parties putting such body out of the way, without giving such information to an officer empowered to hold an inquest, are liable to be proceeded against for a misdemeanor.—*F. U.* 12th Oct. 1836, C. R. No. 39.

ers, robbers, thieves, house-breakers, and disturbers of the peace, and persons charged before him with crimes or misdemeanors.

X. *First*.—Persons accused of treason, murder, robbery, setting fire to any house or village, house-breaking, theft, or counterfeiting of the coin, provided there shall appear sufficient grounds for believing the charge, shall not be admitted to bail; but if the charge be for manslaughter, or any species of illegal homicide not involving the crime of murder, the Magistrate is authorized to proceed in the first instance, either by warrant for taking into custody, or by summons requiring bail, as he may judge proper, on consideration of the circumstances of the case, and of the condition and character of the party accused.

Second.—The principle of the latter part of the preceding Clause is also declared applicable to persons appearing from the Magistrate's enquiry to have been only privy or incidentally accessory to crimes of a heinous nature, without being concerned therein either as principal, or as aiding and abetting, procuring or instigating the perpetration thereof.

XI. The Magistrates upon receiving any charge for any heinous crime, or misdemeanor, are to be careful to ascertain from the complainant, and to record upon their proceedings, on what day of the month, in what year, and at what time of the day or night, the act complained of was committed.

XII. *First*.—Upon a complaint being preferred in writing to a Zillah Magistrate, against any person subject to his jurisdiction, for treason, murder, robbery, house-breaking, theft, setting fire to a village, house or other building, counterfeiting the coin, or any other crime declared not to be bailable, or though not so expressly declared, involving such dangerous breach of the peace or degree of criminality, as from the facts deposed to before the Magistrate, may appear to require the immediate apprehension of the accused, and to render the admission of bail unsafe and improper, the Magistrate, on the truth of the charge being deposed to by the complainant, or in the manner required by the following Sections, shall issue a warrant under his official seal and signature, specifying the crime charged, and directing the officer entrusted with the execution of it to apprehend the person accused.

Second.—The warrant shall be in the Form prescribed in No. 3 of

the Appendix to this Regulation, and shall be directed to any Police Officer.

Third. If the Magistrate shall in any bailable case, judge it proper to authorize the Officer to whom the warrant is committed, to receive bail for appearance (with or without security for keeping the peace), it shall be so specified in the warrant, with the extent of the bail (and security) required according to the Form prescribed in No. 4 of the Appendix to this Regulation.

Fourth.—The bail to be taken for appearance before the Magistrate, shall be in the Form prescribed in No. 5 of the Appendix to this Regulation.

Fifth.—When security may be required for keeping the peace, it shall be taken in the Form prescribed in No. 6 of the Appendix to this Regulation.

XIII. The attendance and deposition of the complainant shall not be indispensable in preferring a criminal charge, when sufficient reason can be assigned for his non attendance. If the complainant be unable to attend in person, or were not himself present at the commission of the act complained of, his written plaint presented by an authorized agent, and corroborated by the deposition on oath or on solemn affirmation, of one or more persons present or otherwise personally informed of the truth of the complaint shall be sufficient grounds for receiving the same, and for issuing process against the party accused, unless the Magistrate see reason for making the previous enquiry authorised by the following Section ; but no warrant for apprehension shall be issued on a complaint, unless the truth of the charge be deposed to on oath, or under a solemn affirmation, either by the complainant himself, or by some other credible person. This shall not however be construed to restrict a Magistrate from issuing process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear upon the report of a Police officer, or upon any other credible information.

XIV. If the Magistrate see cause to distrust the truth of a complaint preferred to him, and if the immediate arrest of the party complained against appear unnecessary and objectionable, the Magistrate is authorized to postpone his issuing his warrant for apprehension, and to cause a previous enquiry to be made, either by means of the

local Police Officers, or in such other mode as he shall judge most proper for the purpose of ascertaining the truth or falsehood of the complainant's allegations; if the result of such enquiry induce the Magistrate to believe the charge well founded, and the offence committed be of the nature described in Section XII. of this Regulation he shall issue his warrant for apprehending the accused as therein directed; but if the accusation appear groundless, or though well founded, if the offence be of a bailable nature, he is empowered in the former case to dismiss the complaint, or in the latter case to direct bail to be taken from the accused, for appearance in person or by vakeel, to answer the charge, as provided by the following Section.

XV. First.—Upon a complaint in writing being preferred to a Zillah Magistrate, against a person subject to his jurisdiction, for any bailable crime or misdemeanor which may not appear to require the immediate apprehension of the accused, the Magistrate, upon the party complaining making oath, or solemn affirmation to the truth of the complaint, or without such oath or affirmation, if satisfactory reason be assigned by the complainant for not attending to make the same, and the truth of the charge be deposed to by some other credible person or persons, shall issue a summons under his official seal and signature, to be served by any Police Officer.

Second.—The summons in all such instances shall specify the offence with which the accused is charged, and shall, according to the circumstances of the case, contain a requisition to attend either in person or by vakeel, to answer to the charge on or before a certain day to be stated in the summons, according to the Form prescribed in No. 7 of the Appendix to this Regulation.

Third.—If it be deemed necessary to require bail, the extent of the bail is to be specified in the summons, in the Form prescribed in No. 8 of the Appendix to this Regulation.

Fourth.—The bail to be taken for appearance before the Magistrates in pursuance of the above Clause, shall correspond with the Form prescribed by Clause IV. Section XII. of this Regulation.

XVI. If an accused person on whom a summons shall have been served, shall not attend in person or by vakeel, and give bail (if re-

Sec. XV. "*Complaint in writing*" not necessary in offences affecting the public.—*Act I. of 1856.*

quired) according to the exigence of the summons, within the period limited by it, the Magistrate shall issue a warrant under his official seal and signature, for the apprehension of the accused, and if he abscond or conceal himself so that he cannot be found, shall proceed against him in the manner directed in the following Section.

XVII. *First.*—The Magistrate is to cause a written proclamation in the language of the district, requiring the absent party to appear to answer the charge against him within a fixed period of time, not less than one month, to be publicly read, and proclaimed by beat of drum, and shall cause such proclamation to be affixed in some conspicuous part of his outcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. In case the party shall not appear and deliver himself up within the period fixed by such proclamation, the Magistrate, on receiving the Police Officer's return to this effect, is to order the attachment of any land or other real property held by the absentee within his jurisdiction, in the following manner.

Second.—If the absentee be a proprietor of land, or sudder farmer, paying revenue to Government, the Magistrate shall hold the land or farm of the absentee in attachment, and take such measures as may be necessary for the due care and management of the lands whilst under his charge, subject to the instructions of the Board of Revenue, to whom he is to make an immediate report of any instances of land being attached by him under this Regulation.

Third.—If the absentee be not a proprietor or farmer of land paying revenue to Government, but as a dependant talookdar, underfarmer, or ryot, or in any other capacity whatever, be the tenant of landed property capable of attachment, the Magistrate shall attach the same, and adopt the necessary measures for the due care and management of it whilst under his charge, paying from the product any rent which may become due to the zemindar or other person entitled thereto, and deducting all necessary expenses in the account to be rendered to the absentee, whenever he may attend, and the attachment of his property be removed.

Fourth.—In all instances wherein an attachment of property may be made under the foregoing rule, the Magistrate, immediately on

the attendance of the party for whose appearance it was ordered, shall direct that the attachment be removed, and that a full and fair account be rendered of all receipts and disbursements during the period of attachment.

Fifth.—Should the absentee neglect to attend for a period of six months after the lands have been ordered under attachment, the Magistrate shall report the case to the Governor in Council, who will pass such order upon it, and upon the future disposal of the lands, as he may judge proper.

XVIII. *First.*—If any person amenable to the authority of the Magistrate, shall resist, or cause to be resisted, any warrant, order or other process of any Magistrate, the Magistrate of the Zillah in which such resistance may have been made, on the same being charged on oath or affirmation, shall, if practicable, cause the party to be apprehended and brought before him to answer to the charge. If the party shall abscond or conceal himself, so that he cannot be apprehended, the Magistrate is to cause a written proclamation in the language of the district, requiring the party to appear to answer the charge against him within a fixed period of time, not less than one month, to be publicly read and proclaimed by beat of drum, and to be affixed in some conspicuous part of his cutcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. If the party charged as above cannot be apprehended, and shall not within the period fixed by proclamation appear to answer the charge against him, or if he shall be apprehended, or shall appear in pursuance of the proclamation, and after receiving his answer to the charge and hearing the evidence he may adduce in his defence, it shall be proved to the satisfaction of the Magistrate that he is guilty of the charge, the Magistrate is to pass judgment against him in the following manner.

Second.—If the offender be a Zemindar, Talookdar or other proprietor of land paying revenue to Government, or the proprietor of Ultumgah, Aymah, or other lands exempt from revenue, situated within the Zillah in which the resistance was made, and the case shall not come under the rule provided in Clause fifth of this Section, the Magistrate shall declare such lands to be forfeited to Go-

vernment, and shall hold them in attachment till the receipt of orders from the Governor in Council, to be communicated in the manner hereinafter directed.

Third.—If the offender be a sudder farmer holding a farm from Government within the Zillah in which the resistance may have been made, and the case shall not come under the rule provided in Clause fifth of this Section, the Magistrate shall declare his lease cancelled, and shall proceed as above required with respect to lands declared forfeited to Government.

Fourth.—If the offender be not a proprietor of land or sudder farmer, paying revenue to Government as described in the two foregoing Clauses, the judgment against him shall declare him liable to the payment of such fine to Government as may appear proper upon a consideration of his rank and circumstances in life, and the offence of which he may be convicted; and the Magistrate shall immediately proceed to the attachment of any property appertaining to the offender for the recovery of the same, in the manner authorized by the Regulations for the recovery of sums of money decreed by the Civil Courts of Justice; in cases wherein the offender may have been apprehended, and may not be possessed of property adequate to the discharge of the fine adjudged against him, the Magistrate, with the concurrence of the Foujdaree Udalut, may commute such fine to imprisonment or corporal punishment.

Fifth.—In cases of resistance to the process of a Magistrate, not attended with aggravating circumstances, wherein the Magistrate before whom the charge may be tried, shall adjudge it sufficient to inflict the punishment which he is authorized to inflict for petty offences, under Section XXXII. of this Regulation, it shall not be necessary to transmit his proceedings for the consideration of the Foujdaree Udalut, as required by Clause sixth of this Section, but the judgment of the Magistrate shall be executed, in such cases, without reference to the Foujdaree Udalut.

Sixth.—Provided always that the whole of the judgments passed by the Magistrates under this Section (with an exception to the judgments passed under the preceding Clause) be immediately reported, with a complete copy of their proceedings, to the Court of Foujdaree Udalut, and the orders of that Court be received under the fol-

lowing Section, before the judgment passed by a Magistrate under this Section be considered final and conclusive.

XIX. The Foujdaree Udalut on the receipt of the proceedings above referred to, are to pass such order thereupon as they may think proper, on due consideration of the evidence, and all the circumstances of the case, and in all instances wherein the forfeiture of the offender's lands or lease may appear to them too severe a punishment for the offence, they are authorized to commute the same for such fine to Government as they may judge adequate, and order the attachment of the lands to be taken off on the payment thereof. The sentence of the Foujdaree Udalut is to be final in all cases of fine, imprisonment and corporal punishment, but in case they shall confirm the judgment of the Magistrate for a forfeiture of the offender's lands or lease, they are, previously to ordering such sentence to be carried into execution, to transmit their proceedings, with those of the Magistrate, to the Governor in Council, who will finally determine whether the sentence of forfeiture shall be put in force, or commuted to a fine, or otherwise; and who, whenever he may order the land or lease of the offender to be forfeited to Government, will at the same time cause the necessary instructions for the future disposal of the land to be conveyed to the Collector through the Board of Revenue. In case the Magistrate's judgment of forfeiture be set aside either by the Foujdaree Udalut, or the Governor in Council, he shall immediately on being informed thereof, and on receipt of the fine (if a fine be ordered) remove the attachment and cause a full and fair account to be rendered of all receipts and disbursements during the period of attachment.

XX. The rules contained in Section XVIII. of this Regulation, shall not restrict the Magistrates from admitting to bail persons charged with resistance to a warrant, order, or other process of a Magistrate in cases not attended with aggravating circumstances, or in any case when the Magistrate upon receipt of the charge, or in the course of his enquiry respecting it, or after he shall have passed judgment upon it, during the reference required to be made to the Foujdaree Udalut, may judge proper to admit the Defendant to bail. As resistance of process is not included in the specification of crimes declared not bailable, it is hereby declared that persons apprehended

on a charge of resistance of process, under this or any other Regulation, and who may not be accused of any aggravating crime in addition to the resistance of process, such as is declared not bailable by Section X. of this Regulation, are to be admitted to bail until a final decision shall have been passed upon the charge, provided the bail offered by them shall appear to the Magistrate sufficient for securing the appearance of the persons so charged during the prescribed investigation of the case.

XXI. In cases of gang robbery, murder, or other heinous crime, when the Magistrate shall be of opinion that the ordinary process prescribed for the apprehension of public offenders would be ineffectual, or when the offenders may not be known, if it appear advisable, to the Magistrate of the jurisdiction in which the crime may be committed, to offer a reward for the discovery and apprehension of the offender or offenders, he shall offer such reward as shall be deemed sufficient, not exceeding in any case the sum of one hundred Rupees for a surdar, or leader of a gang, and twenty Rupees for each of the inferior offenders that may be discovered and apprehended in consequence. In any case which may appear to the Magistrate to require a larger reward, he shall report the same to the Court of Foujdaree Udaltut, with his opinion of the reward that should be offered, and the Court of Foujdaree Udaltut may authorize such reward as shall appear sufficient, not exceeding the sum of five hundred Rupees for a surdar or leader, and one hundred Rupees for each of the inferior offenders ; if these rewards appear to be in any case insufficient, the Court of Foujdaree Udaltut shall report the same for the consideration and orders of Government.

XXII. All specific rewards offered under the discretion of the Magistrate, or which may have been duly sanctioned by the Court of Foujdaree Udaltut, or the Governor in Council under the preceding Section, shall be payable on the conviction of the offender or offenders before the Session Courts. The Session Courts are also hereby

Sec. XXI. There may be more than one Surdar to a gang.—*F. U. 19th May 1837, C. R. 579.*

Sec. XXII. Rewards are payable either by Magistrate offering or by Magistrate in whose jurisdiction parties may have been apprehended—*Sec. VI, Reg. I of 1818.*

empowered to direct the payment of any part of the specific rewards authorized, although the persons apprehended may not be convicted of the crimes charged against them, if from proof of their notorious bad character and the whole of the evidence, there appear to be ground of presumption that the information given against the prisoners was well founded ; provided further that it shall be competent to the Session Court to withhold and prohibit the payment of the whole or any part of the specific rewards offered under the preceding Section, although the persons informed against, and apprehended, may be convicted, if it should appear on the trial that any improper means have been taken by the informer with a view to the conviction of the accused, or that the latter has suffered any maltreatment from the former, or from any person under his influence.

XXIII. In cases wherein any meritorious service may have been rendered by Police Officers or others, in the apprehension of discovery of public offenders, for whom no specific reward may be payable to the person or persons who have performed such meritorious service, the Session Courts, on due consideration of the service rendered, the exertions made, and any expense incurred in the performance of it, are authorized to direct the payment of such remuneration as may be considered adequate, not exceeding the sum of one hundred Rupees for a surdar, and ten Rupees for an accomplice. If a larger reward be deemed proper, a report of the case shall be made to the Court of Foujdaree Udalut, who are authorized to direct the payment of any sum not exceeding five hundred Rupees. If in any case it appear proper to grant a higher reward or compensation than five hundred Rupees, the Court of Foujdaree Udalut shall report the same for the consideration and orders of Government.

XXIV. *First*.—Upon a prisoner being brought in the first instance before the Magistrate, charged with any crime or misdemeanor, he shall enquire into the circumstances of the charge, and examine the prisoner, and also such other persons as are stated to have any knowledge of the crime or misdemeanor alleged against the prisoner, and commit their respective depositions to writing. The wit-

Sec. XXIII. Activity of Police Peons, in apprehending certain escaped convicts, commended but not held entitled to reward as being no more than their duty.—*F. U. 4th July 1837, C. R. 979.* The powers conferred by this Section on Session Judges are extended to Magistrates and Criminal Judges by Sec. X. Reg. XIII. of 1832.

nesses shall be examined upon oath, or solemn affirmation, but the prisoner shall not be required to swear to, or affirm the truth of his deposition; after this enquiry, if it shall appear to the Magistrate that the crime or misdemeanor charged against the prisoner was never committed, or that there is no evidence of his having been concerned in the committing of it, the Magistrate shall cause him to be forthwith discharged, recording his reasons for releasing him, and submitting them to the Session Court with the calendar ordered to be prepared in Section XL. of this Regulation.

Second.—If on the contrary it shall appear to the Magistrate, that the crime or misdemeanor was actually committed, and that there is evidence of the prisoner's having been concerned in the perpetration of it, the Magistrate shall send the prosecutor, the witnesses and the prisoner, with the proceedings on the case, to the Criminal Judge of the Zillah; but it shall not be necessary for the Magistrate to go further into the examination, than to satisfy his own mind that there is ground to believe the prisoner guilty of the crime charged against him.

XXV. Whenever the Magistrate may forward a prisoner to the Criminal Judge, under the preceding Section, he shall send by the Police Peons in charge of the prisoner, a paper containing the name of the prisoner, the crime with which he is charged, and date of the charge, the date of his apprehension, and a list of the prosecutors and witnesses, and of all examinations and depositions that may have been taken, either by himself, or any Police Officers. The Judge shall immediately on the receipt of such paper, certify on the back of it, whether or not the prisoner and documents have been received, and shall return it by the Police Peons to the Magistrate, and no other communication shall be necessary.

XXVI. When a prisoner confesses, before the Magistrates, the crime or misdemeanor of which he may have been accused, the Magistrates are to be careful to have such confession witnessed by as many creditable persons, who may be present at the time it may be made, as the Mahomedan Law requires to give it validity; but the

Sec. XXV. This paper may be in the Native language, except in cases of perjury, when the Magistrate should proceed as directed in C. O. 1st August 1821,—*C. R. Nos. 141, 585, 586.* The Criminal Judge must endorse on this paper prior to returning it, the heading or headings under which the case is entered in the returns of the Court.—*F. U. 28th Oct. 1850.*

Sec. XXVI. See C. Os. on subject of confession, 6th April 1820, 29th April 1822, 29th October 1824, and 24th March 1825.

Magistrates are strictly enjoined to satisfy themselves that all confessions made by prisoners are free and voluntary. The Magistrates are further required to take special care, that persons upon being apprehended, are not made to suffer corporal punishment, or otherwise ill-treated under the pretence of compelling them to answer truly to questions, that may be put to them, or under any other pretext whatever.

XXVII. No private compromise or razeenamah shall be admitted by the Magistrate in crimes of a heinous nature, such as on conviction may require exemplary punishment for the ends of public justice.

XXVIII. All examinations and depositions taken before the Magistrate, are to be written on separate papers, signed by the Deponents, attested by the signature of the Magistrate, and are to be taken and written in the language in which the Deponents may desire to have the same recorded.

XXIX. The Magistrates of the several Zillahs shall not receive any charges of perjury which may be preferred by parties in civil

Sec. XXVII. This is identical with Section VIII, Reg. IX. of 1807 of the Bengal Code. And it has been there ruled, "that the principle of the prohibition is applicable to, and obligatory upon, the whole of the Criminal Courts." A Session Judge would not therefore be justified in admitting a compromise in crimes of such serious nature—especially crimes recognized as such in the Regulations, and when it has been expressly directed that the offenders should be brought to trial before the Criminal Courts; nor can he in any case admit a formal razeenamah, to bar the trial of a commitment; both as there is no provision for such in the existing Regulations, and as the established practice of discharging the prisoner on acquittal, when evidence is not adduced for his conviction, and the ends of public justice do not require a postponement of the trial for further evidence, appears preferable to the admission of a compromise, which might perhaps leave the prisoner exposed to a future prosecution.—*Beng. C. O.* 187, Vol. 1.

The Mahomedan law recognizes the right of the ruling power to punish serious offences for the ends of justice, though the injured individual waives his private claim.—*N. A. R. Vol.* 1, p. 367.

Notwithstanding a private compromise of theft, the Magistrate may, if he think proper, direct a public prosecution.—*Beng. Const.* 318.

In a case of rape, the Court sentenced the prisoner to punishment, although a razeenamah was filed by the injured party, in consequence of the prisoner's promise to marry her:—as in so heinous an offence a compromise was deemed inadmissible.—*N. A. R. Vol.* 3, p. 127.

In a case of wounding the Court released the prisoner, the husband of the injured party, at the wife's request.—*N. A. R. Vol.* 1, p. 344.

Sec. XXIX. For further restrictions in this respect, see Sec. VIII, Reg. II. of 1822, and Clause 3, Sec. III, Reg. VIII. of 1829.

suits, either against their own witnesses, or against the witnesses of the adverse party, or of subornation of perjury against the adverse parties in such suits; and all individuals whose attendance is required in the Civil Courts, either as plaintiffs, defendants, or witnesses, are hereby declared not to be liable to any prosecution of this description, unless they shall be committed to take their trial by the Zillah Judge under the authority vested in him by Section VIII, Regulation III. of 1802.

XXXI. All Europeans, not British subjects, shall be amenable to the authority of the Magistrates, the Criminal Judges, and Session Courts, within whose jurisdiction they may be apprehended, and brought to trial, in common with the Natives of the country.

XXXII. The Magistrates are empowered to hear and determine without reference to any authority, all complaints or prosecutions brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and to punish the offender when convicted, by committing him to prison in the Zillah Jail, or Village Choultry, as to them may seem proper, for a term not exceeding fifteen days, or by imposing a fine upon him: but the fine is in no case to exceed the sum of fifty Rupees, unless the offender be a zemindar, independent talookdar, or other actual proprietor of land paying an annual revenue to Government of more than ten thousand Rupees, or a proprietor of ayma land paying a quit revenue to Government exceeding five hundred Rupees per annum, or of Lakheraj land, the annual produce of which may be above one thousand Rupees in which cases such offender shall be liable to a fine not exceeding two hundred Rupees. The Magistrate is to fix the amount of the fine under the limitations prescribed, upon a due consideration of the nature of the case, and the situation and circumstances in life of the offender.

XXXIII. The Magistrates are authorized to hear and determine without reference to any authority, all complaints or prosecutions

Sec. XXXII. A party sentenced to fine under this Section, for a breach of the peace, may also be called upon for security "*to keep the peace*" under Sec. V. Reg. VI. of 1827, but not for good behaviour under Clause 1, Sec. VI. of the same Regulation.—*F. U.* 17th January, 1837, *C. R.* 319.

Sec. XXXIII. *Corporal punishment*.—This was abolished in Bengal by Reg. II. of 1834, and subsequently again legalized, in certain cases of petty theft, by Act III. of 1844. The Indian Law Commissioners, speaking of this mode of punishment, remarked, "We have not

brought before them for petty thefts, when they shall not have been attended with any aggravating circumstances, or committed by persons of notorious bad characters, and to inflict upon the offenders corporal punishment not exceeding ninety lashes with a cat-of-nine tails, or commit them to prison in the Zillah Jail, or Village Choultry, as to them may seem proper, for a term not longer than one month, according as they may think proper upon a consideration of the circumstances of the case.

XXXIV. First.—In cases of a prisoner punishable by the Magistrate under the two preceding Sections, being sent to the Zillah Jail, the Magistrate shall forward with the prisoner a warrant in the Form prescribed in No. 10 of the Appendix to this Regulation, addressed to the Keeper of the Jail, who shall conform to the tenor of the warrant.

Second.—The warrant shall be accompanied by a paper addressed to the Criminal Judge, containing the name, the crime, or offence, and the period of confinement to which the prisoner may have been

thought it desirable to place flogging in the list of punishments. If inflicted for atrocious crimes with a severity proportioned to the magnitude of those crimes, that punishment is open to the very serious objections which may be urged against all cruel punishments, and which are so well known, that it is unnecessary for us to recapitulate them. When inflicted on men of mature age, particularly if they be of decent stations in life, it is a punishment of which the severity consists, to a great extent, in the disgrace which it causes; and, to that extent, the arguments which we have used against public exposure, apply to flogging. The moderate flogging of young offenders for some petty offences is not open, at least in any serious degree, to the objections which we have stated. Flogging does not inflict on a boy, that sort of ignominy which it causes to a grown man. Up to a certain age, boys even of the higher classes, are often corrected with stripes by their parents and guardians; and this circumstance takes away a considerable part of the disgrace of stripes inflicted on a boy by order of a Magistrate. In countries where a bad system of prison discipline exists, the punishment of flogging has in such cases one great advantage over that of imprisonment. The young offender is not exposed, even for a day, to the contaminating influence of an ill-regulated goal. It is our hope and belief, however, that the reforms which are now under consideration, will prevent the gaols of India from exercising any such contaminating influence; and, if that should be the case, we are inclined to think that the effect of a few days passed in solitude, or in hard and monotonous labour, would be more salutary than that of stripes. Being satisfied therefore, that the punishment of flogging can be proper only in a few cases, and not being satisfied that is necessary in any, we are unwilling to advise the Government to retrace its steps, and to re-establish throughout the British territories a practice which by a policy unquestionably humane, and by no means proved to have been injudicious, has recently been abolished through a large part of those territories."

The punishment of juvenile offenders with 10 stripes with a rattan has since been authorised by Act I. of 1853.

sentenced. The Judge shall return the paper by the Police Officers who may come in charge of the prisoner, with an endorsement attested by his official seal and signature, acknowledging the delivery of the prisoner.

XXXV. Where the complaints specified in Sections XXXII. and XXXIII. of this Regulation, shall appear to the Magistrate to be litigious, vexatious, or groundless, he is authorized to punish the complainant by fine or imprisonment, under the limitations and restrictions prescribed for the punishment of the offences specified in Section XXXII.

XXXVI. In cases of a trivial nature, such as abusive language, slight trespasses, and inconsiderable assaults or affrays, in which there may be no reason to apprehend that the party complained against will abscond, bail for appearance shall not be required in the first instance, but may at any time during the investigation of the charge be called for by the Magistrate, if any circumstances should occur to render it necessary. The Officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be acquired, shall demand only an acknowledgment of the receipt of it, and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party. The Officer serving the summons in such instances, shall be authorized on the tender of a razeenamah expressing the plaintiff's desire to withdraw his complaint, and the defendant's acquiescence in the complaint being withdrawn, to receive such razeenamah as a sufficient return to the process committed to him; but excepting in the trivial cases noticed in this Section, no razeenamah shall be received without the special sanction of the Magistrate,

XXXVII. The Magistrates are to pay the customary daily subsistence money to all prisoners, from the time of their apprehension, to the date of their discharge or delivery to the Criminal Judge.

XXXIX. *First.*—No fines, except in the cases specified in the second Clause of this Section, shall be imposed by a Magistrate,

XXXIX. Fines should not be carried to credit of Government till Petty Calendars have been reviewed by Session Judge; of which he should apprize Magistrate.—*F. U. 13th March, 1849.*

save and except to the use of Government, and whenever a fine to the use of Government shall be imposed, the Magistrate who may pass the sentence, shall at the same time, weighing all the circumstances of the case, fix a definite period of imprisonment to be held as equivalent to the fine; at the expiration of which, the persons convicted shall be discharged, if they have not previously paid the fine. In cases in which the Magistrate shall impose fines, the imprisonment to be fixed by him as equivalent to the fines, shall not exceed the periods specified in Sections XXXII. and XXXIII. of this Regulation.

Second.—In case of injury to any complainant, when the fine may have been levied, it shall be lawful for the Magistrate to award the whole, or any portion of such fine, to the party aggrieved, by way of satisfaction for such injury, as he may deem equitable.

XL. *First.*—The Magistrates shall cause to be delivered to the Session Courts of their respective Zillahs, a calendar containing a list of all persons whom they may have apprehended for crimes or misdemeanors, and discharged for want of sufficient evidence; as also a calendar containing a list of all punishments which they may have ordered on petty offences or petty thefts.

Second.—These calendars are to be accompanied with all the original proceedings in each case, and if the Session Court shall be of opinion, that any of the persons mentioned in the first calendar have been discharged, or the persons specified in the second calendar punished upon insufficient grounds, they are to transmit to the Magistrate such written orders on the case as may appear to them proper, to which he shall conform.

Third.—The Session Courts are to report to the Foujdaree Udalt, for the information and orders of Government, whenever the Magistrates omit or refuse to obey their orders, as also whenever it shall appear to them that the Magistrates have been guilty of neglect or misconduct in the discharge of their duty.

XLI. Every summons, or other criminal process, shall be served by a Peon or other Police Officer receiving wages from Government, and no diet money, or other allowance or gratuity shall be demanded or received, from the complainant, or accused, whether the case be adjusted by razeenamah or otherwise; and the demand or receipt of such by any Public Officers, directly or indirectly, in viola-

tion of this rule, shall be punishable as a criminal offence, on conviction before the Magistrate, the Criminal Judge, or Session Court of the Zillah; the offender shall also be compellable, either by a criminal prosecution, or by a civil action, to refund the amount received, besides being liable to immediate dismission from office under the provisions contained in the existing Regulations.

XLII. Magistrates are hereby empowered to remove Police Officers from one station to another within their respective jurisdictions without reference to any authority.

XLIII. The Zillah Magistrates and their Assistants are hereby declared amenable to the Zillah Court in the jurisdiction of which they may reside, or carry on the public business committed to their charge, by a civil prosecution, for any act or acts, done in their official capacity, in opposition to any established Regulation.

XLV. The offences specified in Sections XXIII. and XXIV. Re-

XLIII. Prosecutions under this Section are to be instituted in the Zillah Courts established by Act VII. of 1843.—*See* XXXVIII. Act VII. of 1843.

For course of procedure in Civil Court on such prosecutions, see Reg. I. of 1823.

Opposition to Regulation.—If this “opposition” were wilful and against better knowledge, a Magistrate would be liable to an action in the Supreme Court under the Act of 21 Geo. III, as acting without, and beyond, his office, and consequently not entitled to its immunities or privileges.

“In order to render the provincial Magistrates, as well Natives as British subjects, more safe in the execution of their office, it is enacted, that no action for wrong or injury shall lie in the Supreme Court against any person whatsoever, exercising a judicial office in the country Courts, for any judgment, decree, or order of the said Court,” nor against any person for any act done by, or in virtue of the order of the said Court.—21 Geo. III. Cap. 70, Sec. 24.

The Mofussil Courts are protected, by the above clause, from actions for things done within their jurisdiction, though erroneously or irregularly done; but they are liable for things done wholly without jurisdiction, provided they had knowledge, or means of knowledge, of which they ought to have availed themselves, of that which constitutes defect of jurisdiction. And it is not merely in respect to acts in Court,—*sedente curia*,—that the Mofussil Courts have an immunity, but in respect of all acts of a judicial nature.—*Judgment of Privy Council.*—*Morton's Reports*, p. 397.

For course of procedure in such actions, see 21 Geo. III, Cap. 70, Sec. 25, 26.

But see Act XVIII, of 1850 which protects all officers acting *judicially* from penal consequences for Acts done in good faith though wrong.

XLV. *Offences under Sec. XXIII. XXIV. Reg. I. of 1812*—*Viz.* instances of extortion on the part of Native Officers employed in collection of Customs—or parties assuming that character—but by Act XXII. of 1837, in Chingloput neither the Magistrate or Criminal Judge, had any jurisdiction in respect of offences, committed within the Collectorate of Madras against any Regulation relating to the public revenue, that jurisdiction being vested in the Superintendent of Police at Madras.

gulation I. of 1812 shall be cognizable by the Magistrate under the limitations with regard to the extent of punishment prescribed by Sections XXXII. and XXXIII. of this Regulation ; but in all cases where the Magistrate may deem the punishment, which he is authorized to inflict, inadequate to the offence, he shall send the witnesses and the offender, with the proceedings on the case, to the Criminal Judge of the Zillah.

XLVII. All persons appointed to the Station of Zillah Magistrate, are hereby required to take the prescribed oath of qualification to act as Justices of the Peace for their respective districts, within three months from the date of their appointment.

Sec. XLVII. This oath may be taken before any Civil or Criminal Court—see Act XVI. of 1841.

REGULATION X. OF 1816.

A Regulation for constituting Criminal Judges of the respective Zillahs, and defining their powers.

II. *Criminal Judges*, previous to entering upon the duties of their office shall make and subscribe the following declaration.

VI. The special jurisdiction of the Criminal Courts of the several Zillahs is to be exercised within the limits assigned to them by the order in Council by which they are constituted (Act. VII. of 1843 :) provided however, that the Criminal Judges be not considered to have any jurisdiction or authority whatever in the town of Madraspatnam, or any places adjacent, within the limits of the jurisdiction of the Supreme Court of Judicature at Madras.

VII. The Criminal Judges—and *Magistrates*, Sec. LIV. Act VII. of 1843—are hereby empowered in all cases of conviction before them, of a criminal offence punishable under the Mahomedan law and the Regulations, for which the penalties authorized by Sections XXXII. and XXXIII. Regulation IX. of 1816, may appear insufficient, or to which the rules referred to may not be expressly applicable, and for which a more severe punishment than six months' imprisonment with 150 lashes, or a fine of two hundred Rupees may

Reg X. of 1816. "*Criminal Judges*." The term Criminal Judge, will for convenience be generally used to designate the functionaries presiding in the Subordinate Criminal Courts whether Subordinate Judges, Principal Sudder Ameen or Sudder Ameens where necessary, the particular office will be expressed.

Sec. II. "*Declaration*" form omitted, and see note on Sec. V. Reg. VII. of 1802.

Sec. VI. "*For order in Council*" see *Port St. George Gazette* 28th July 1843, No. 1316, page 617. *Limits*.—For these see Sec. XII. Reg. II. of 1802.

Sec. VII. For extension of these powers, in the case of Criminal Judges, see Sec. III. Reg. VI. of 1822. Corporal punishment, under this provision of the law, can only be awarded in cases of theft.—*F. U.* 11th Feb. 1835. *V. M.* No. 15.

Females are exempted from stripes by Reg. II. of 1833, but they may, if deemed necessary, be placed in irons.

not have been especially prescribed—in which case the prisoner, if there appear grounds for it, must be brought to trial before the Session Court—to pass sentence of imprisonment not exceeding six months, with corporal punishment not exceeding 150 lashes with a cat-of-nine tails, in cases of theft; or in other cases, with a fine not exceeding two hundred Rupees, commutable, if not paid, to a further period of imprisonment not exceeding six months, so that the entire period of imprisonment under the sentence of a Criminal Judge, or *Magistrate*, shall in no instance exceed one year.

VIII. The Criminal Judge of the Zillah shall not receive or take cognizance of any criminal charge or information, except such as may be brought before him by a Magistrate, or some Police Officer under his authority; provided however, that this restriction shall not be considered as applicable to cases in which an European British subject shall be a party.

IX. *First*.—Upon a prisoner being brought before the Criminal Judge, he shall enquire into the circumstances of the charge, and examine the prisoner and the complainant, and also such other persons as are stated to have any knowledge of the crime or misdemeanor alleged against the prisoner, and commit their respective depositions to writing. The complainant and the witnesses shall be examined upon oath, or on a solemn affirmation, but the prisoner shall not be required to swear to, or affirm the truth of his deposition; after this enquiry, if it shall appear to the Judge that the crime or misdemeanor charged against the prisoner was never committed, or that there is no evidence of his having been concerned in the committing of it,

Sec. VIII. *Provided, &c.*—Or to cases of perjury, subornation of perjury, of forgery, sent to him by superior Courts, under Sections V. and VI. Reg. VI. of 1811, *see C. O. 28th Oct. 1823 B, and 12th Feb. 1834*.—Or to like cases falling under his own judicial view.—Or to cases of perjury or subornation of perjury, sent to him under Sec. III. Reg. VIII. of 1829, by the authorities therein mentioned.—Or to offences committed by prisoners in the jails under their charge, *see C. O. 23d June 1828*.—Or to cases in which prisoners forwarded to the Criminal Court by competent authority may escape, *F. U. 16th Oct. 1828*.—Or to cases in which absent parties may appear implicated in cases before him, *see C. O. 10th Aug. 1833*.—Or to neglect of Peons suffering prisoners to escape under Sec. XI. Reg. XIII. of 1832.

Sec. IX. This Section might perhaps be omitted entirely, as abrogated by Sec. XXIX. Act VII. of 1843, but I have thought better to leave it as a useful guide, subject to the modifications of the latter enactment which see.—Cl. 3. *Bind over, &c.*—This, under the new system, introduced by Act VII. of 1843, is now only necessary when from any peculiar circumstances, such as a vacancy in the Session Court, unavoidable delay, &c., the trial may not be commenced immediately.

the Judge shall cause him to be forthwith discharged, recording his reasons for releasing him, and submitting them to the Session Court.

Second.—If on the contrary, it shall appear to the Judge that the crime or misdemeanor was actually committed by the prisoner, and if it should be punishable by the Judge under Section VII. of this Regulation, or the provisions of any other enactment, he shall adjudge such punishment as he may deem proper.

Third.—If the crime or misdemeanor be not punishable by the Judge, and if it shall appear that it was actually committed, and that there is evidence of the prisoner having been concerned in the perpetration of it, the Judge shall commit him to prison, or hold him to bail (according as the offence may be bailable or not), to take his trial before the Session Court; and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence.

Fourth.—All bail bonds for prisoners released upon bail, and the recognizances required to be taken from prosecutors and witnesses shall be for a specific sum, the amount of which shall be determined by the Judge upon a due consideration of the case, and the circumstances and situation in life of the parties, and shall contain a clause declaring the amount forfeited to Government, in the event of the condition of it not being performed.

X. The Criminal Judges are to be careful to ascertain from the complainant, and to record upon their proceedings, on what day of the month, in what year, and at what time of the day or night the act complained of was committed; when a prisoner confesses before them the crime or misdemeanor with which he may have been accused, or confirms any former confession that he may have made of his having committed such crime or misdemeanor, the Judges are to be careful, in cases referrible to the Session Court, to have such confession, or confirmation of a former confession, witnessed by as many creditable persons who may be present at the time it may be made, as the Mahomedan law requires to give it validity, and to cause such witnesses to be in attendance before the Session Court; all confessions made by prisoners shall be free and voluntary, and notwithstanding such confessions, the Judges are invariably to cause the witnesses to the commission of the crime or misdemeanor alleged against the prisoner, to attend, that they may be examined before the Session Court in the same manner as if the prisoner had denied the charge.

XI. In all cases of trial before the Session Court, if the admission of bail have not been prohibited by the Regulations, and the bail tendered shall appear sufficient for securing the appearance of the party accused, he shall be admitted to bail, until sentence be passed upon the charge against him; moreover in special instances, wherein the Session Court, on report from the Criminal Judge, or on other satisfactory information before it, may deem it just and proper to admit to bail a person charged with an offence not bailable under the general provisions contained in the Regulations, that Court is declared competent to instruct the Judge to accept sufficient bail, instead of keeping the accused in confinement whilst the charge against him is under trial. The Session Court may likewise in all bailable cases wherein the bail required by the Judge shall appear excessive, direct the Judge to receive such bail as may be deemed sufficient to answer the purpose intended by it.

XII. The bail to be taken under the preceding Section, as well as in all cases of persons being held to bail for trial before the Session Courts, shall be according to the Form prescribed in No. 3 of the Appendix to this Regulation.

XIII. In all cases of a prisoner being committed, or held to bail for trial before any Session Court, the Criminal Judge who may order him to be so committed or held to bail, shall immediately after passing such order, question the prisoner whether he wishes to have any witness or witnesses examined in his defence before the Session Court, and in the event of his answering in the affirmative, shall cause a list of the witnesses named by the prisoner, specifying their designations, and places of abode, to be taken down and recorded upon his proceedings; or in the event of the prisoner's replying in the negative, shall cause his reply to that effect to be recorded on his proceedings, for the information of the Session Court.

XIV. In the event of any person whether committed, or held to bail for trial before the Session Court, desiring the examination of

Sec. XII. *Form prescribed.*—This form, and others adverted to, being in use, and well known in every Court, it has not been thought necessary to insert them in an Appendix.

Sec. XIII. This course is to be followed by the Criminal Judge under the present, as under the former system, see C. O. 30th April, 1846.

Sec. XIV. *Session Judges are to be careful, &c.*—In the original "*Criminal Judges*"—but it has now become the duty of the Session Judge under Sec. XXX. Act VII. of 1843, and on this point see also the C. O. 30th April, 1846.

any witness, or witnesses upon his trial, although the same may not have been named by him at the time of his being committed, or held to bail, the *Session Judges* are to be careful to cause the attendance of such witnesses, as well as of those before named, at the trial of the party who may desire their examination.

XV. All examinations taken before the Criminal Judge are to be written on separate papers, signed by the deponents, attested by the signature of the Judge, and arranged according to their respective dates.

XVI. All examinations and depositions are to be taken and written in the language in which the deponents may desire to have the same recorded.

XIX. The Criminal Judges are to deliver to the Session Court a Calendar.

XX. The Calendar is to be accompanied with the Criminal Judges' proceedings on each charge, which shall contain the *following vouchers*, or as many of them, as from the nature and circumstances of the case may be requisite and procurable; with such other papers and documents as the Judge may have in his possession, or judge necessary to be obtained for the information of the Session Court.

XXI. *The following documents* shall also be delivered if required by the Judges of the Session Courts.

XXIV. Session Judges are hereby declared competent on all occasions when it may appear necessary, upon petitions presented to them relative to the proceedings of any Criminal Judge, within their jurisdiction, to call upon the Judge for his proceedings on the case, and to pass such orders thereupon as they may deem proper and consistent with the Regulations.

XXV. In like manner the Court of Foujdarce Udalut are declared competent to call for the proceedings of any Session Court, or of

Sec. XV. *Separate Papers.*—Under the new system—Sec. XXIX. Act VII. of 1843—this seems unnecessary; its requirements are fulfilled, and much time and labour saved, by appending to the examination taken before the Police or Magistracy, a single question and answer, expressing that the Deponent, having heard the same read, confirms it on oath, or solemn affirmation, the same being of course duly signed and attested, and this practice generally obtains.

Sec. XX. *The following Vouchers.*—The particular documents, &c. detailed in the original, have necessarily undergone so much change and modification since the introduction of the new system by Act VII. of 1843, that it seemed better to omit the list altogether.

Sec. XXI. See note on Sec. XX.

any Criminal Judge, whenever it may appear requisite, and to pass such orders thereupon as that Court may deem just and proper.

XXVI. If the Criminal Judge shall commit any Zemindar, independent Talookdar, or other actual proprietor of land to be tried before the Session Court, he is to notify the commitment to the Collector of the Zillah, that if necessary, he may take measures to prevent any delay in the payment of the public revenue assessed upon the lands of the offender.

XXVII. The Jail of the Zillah shall be placed under the exclusive charge of the Criminal Judge of the Zillah, *unless the Criminal Court be constituted according to Regulation VIII. of 1827, when the Zillah Jail shall be under the charge of the Session Judge.*

XXVIII. The Criminal Judge shall visit the Jail at least once in every month, and redress all well founded complaints of ill-treatment, which may be preferred to him by the prisoners, against the Jailor, or any Officer having charge of them; he is to be particularly attentive to the health and cleanliness of the prisoners, and to see that the Surgeon of the station attends and administers to the sick.

XXIX.—Separate apartments in the Jail shall be allotted for the following descriptions of prisoners.

1st. Prisoners under sentence of death.

Sec. XXVII. By Act V. of 1847, Officers in charge of jails, are required to give effect to sentences of Courts established by the Supreme Government in states or territories administered by British officers, yet not within the limits of Presidencies. The law was modified as in italics by Sec. XLVIII. Act VII. of 1843.

Sec. XXIX. In many instances the classification herein prescribed, can be, from unavoidable circumstances, but partially carried out. Every officer, who has had charge of an Indian jail, must have felt the difficulties and obstacles which present themselves to the establishment of regular and improving discipline. Such functionaries will be familiar with the Report of the Committee on Prison Discipline, presented to the Governor General in Council on the 8th January 1838, but it may be not out of place here to insert the following extract from the proceedings of the Supreme Government thereon, of the 8th October 1838:—

“Every reform of prison discipline is almost of necessity attended at the outset with extraordinary expense. To exchange the common herding of prisoners of all descriptions, for careful classification, to substitute a strict and useful industry for idleness or for a light and ill-directed labor, to provide that the life which is irksome shall not also be unhealthy, and that the congregation of the vicious shall not be a school of vice, are all objects, for the first approach to which, buildings must be erected, machinery formed, and establishments and checks upon establishments, contrived, and in the perfect attainment and maintenance of which, great disappointment has, after every effort and expense, in many countries ensued. In no country is it likely that greater difficulty will be experienced than in this. For the mere locality of the prison, that which is healthy in one season, may become a pest house by

2nd. Prisoners sentenced to confinement by a Criminal Judge, by the Session Court, or the Foujdaree Udalt.

3rd. Prisoners committed to take their trial before the Session Court.

4th. Prisoners sentenced to confinement by the Magistrates for petty crimes or misdemeanors cognizable by him. And as the crimes proved or alleged against the second and third descriptions of prisoners must be of different degrees of atrocity, the Criminal Judges are required to separate those who have been found guilty, or accused of heinous crimes, from such as have been convicted of, or charged with, crimes of less magnitude. They are likewise to separate the male from the female prisoners, so as to prevent their having any communication with each other, and the rules prescribed in this Section for keeping apart the several descriptions of the former, are to be considered applicable also to the latter. The Judges are further enjoined to endeavour to prevent drunkenness, gaming, and other immoralities being practiced in the jails.

XXX. All complaints or charges, with the orders upon them, are to be recorded in the office of the Criminal Judge, in the English, and language of the district in which the Court may be held.

XXXI. The officers in charge of jails are to pay the customary daily subsistence money to all prisoners, from the time of their being delivered over to them, to the date of their discharge.

XXXII. The officers in charge of jails are to pay to all persons who may be released from jail, after an imprisonment of six months or upwards, calculating from the date of their sentences, and who shall appear to be in actual need of such assistance, a sum sufficient to maintain them for one month. The sum to be so paid to each individual, is to be regulated by his situation in life, but it is in no

a blast of fever or of cholera in another. For its form—the close yard which is adapted for classification, and is not unwholesome in England, would be a sink of malaria in India. For food, for labor, and for consort, there are habits, and an inveteracy of prejudice and of feeling bearing upon health, and almost upon life, opposing difficulties to the just management of prisons, such as are not elsewhere to be encountered; and, superadded to all this, is the absence of fitting instruments for control and management, while it is principally upon a perfect tact and judgment, and an unwearied zeal, that the success of every scheme of discipline has been found to depend.”—With a view of remedying the evils as far as possible, an

INSPECTOR OF PRISONS has been appointed under Act VIII. of 1856.

Sec. XXXI. Or rather are authorised to expend it on their subsistence, as is now the general, and certainly the most expedient practice.

case to exceed five Rupees, and in every instance is to be confined as much within that amount, as may be consistent with the purpose for which the allowance is granted.

XXXIV. The provisions of Section XXXIX. Regulation IX. of 1816, respecting the imposition and disposal of fines by the Magistrate, are hereby declared equally applicable to the office of Criminal Judge.

XXXVIII. Such cases as come under Sections XXIII. and XXIV. Regulation I. of 1812, which may be referred under Section XLV. Regulation IX. of 1816, by the Magistrate to the Criminal Judge, shall be cognizable by him under the limitations with regard to punishment which are prescribed by the Sections above specified respectively.

XL. All persons hereafter appointed to the station of subordinate Judge, are required to take the prescribed oath of qualification to act as Justices of the Peace, within three months from the date of their appointment.

Sec. XXXIV. That is to say the whole, or any part thereof, may be awarded in compensation to an aggrieved party.

REGULATION XI. OF 1816.

A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.

III. The present establishments of Police Darogahs and Tanahdars shall from the first day of November 1816, be abolished, and the duties heretofore discharged by those persons, shall be performed by persons of the descriptions hereinafter mentioned.

1. Heads of villages as described in Section III. Regulation IV. of 1816, aided by Curnums or Village Registers, and Tallyars and other Village Watchers.

2. Tahsildars, or Native Collectors of districts, by whatever name designated, with the assistance of Peshkars, Gomashtas, and establishments of Peons.

3. Zemindars.

4. Ameens of Police.

5. Cutwals and their Peons.

6. Magistrates of Zillahs, their Subordinates and Assistants.

IV. Heads of villages shall be ex-officio Heads of the Police of their respective villages.

V. *First.*—Heads of villages, are authorized and directed to apprehend all persons charged with committing crimes, or offences, or breaches of the peace; and all persons accused of injuring the public buildings, roads, tanks, and water channels; and except in the trivial cases, wherein they are authorized by Section X. of this Regulation, and by Section VI. Reg. IV. of 1821, to inflict punishment,

Sec. III. *Head of Village.*—The principal manager of its affairs, however designated; provided he be resident therein, and be recognized as such by the Collector.

they shall forward the persons, whom they may apprehend, together with the accusers and witnesses, to the Police Officer of the district.

Second.—Hheads of villages shall not receive from any person whom they may apprehend any confession either verbally or in writing, except in the trivial cases referred to in the preceding Clause ; nor shall they on any account, except the accused person be in such a state as to render his removal improper, detain any person in their custody longer than twenty-four hours.

VI. In cases of emergency, the Head of the village is authorized to call upon the inhabitants generally, to assist him in securing offenders ; and all the inhabitants of the village are hereby required, to co-operate with him on such occasions ; provided that no person who is prohibited by the rules of his caste or profession from performing such service, shall be compelled so to do.

VII. If Heads of villages shall be unable with the persons at their command, and the people of their own villages, to apprehend the parties accused, they shall have authority to call on the Heads of neighbouring villages for assistance, and all Heads of villages are hereby required to afford the most prompt assistance whenever they may be called upon by their neighbours so to do.

VIII. Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders, and the general security of the country.

IX. Heads of villages shall report to the Police Officer of the district the arrival in their villages of strangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

X. *First.*—In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or if the offence charged shall be proved to have been committed by the persons accused of it, and shall appear deserving of punishment, to

Sec. VIII. Suspicious persons.—In regard to surveillance, which in accordance with the ancient practice and custom of the country, may with propriety be exercised by Heads of Village over such characters, see C. R. No. 413, page 186.

confine the offending parties in the Village Choultry for a time not exceeding twelve hours; or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishment, to order them to be put in the stocks for a time not exceeding six hours.

Second.—Heads of villages shall report to the Police Officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first Clause of this Section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

XI. *First.*—Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with, unless prompt measures be taken to secure it, they shall cause search to be made, and the property, if found, to be secured and forwarded, with the offender, to the Police Officer of the district. If the place of concealment be a dwelling house, the search shall be made only between sun-rise and sun-set.

Second.—Heads of villages shall apprehend, and send to the Police Officer of the district, all persons who may be found selling property which there may be reasonable ground to suspect has been stolen, and of which such persons may not be able to give a satisfactory account.

Third.—Heads of villages shall also send to the Police Officer, along with the persons accused of selling stolen property, such persons as may be able to give an account of the circumstances of the case.

XIII. *First.*—The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot, with the Curnum and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of the body, and its appearance when discovered, or regarding the murder of the deceased, if the body should have been deprived of life by murder.

Sec. XIII. See Sec. XXXVI. as to presence of Tahsildars at inquests, in cases of murder—C. O. 25th March 1824, in regard to inquests on persons dying in custody—and 30th January 1833, as to inquests generally.

Second.—The head of the village on receiving information of the discovery, shall also without delay send notice of it to the Police Officer of the district, and if the Police Officer shall arrive at the spot in time to enquire into the circumstances under which the body may have been discovered, the enquiry shall be conducted under his superintendence.

Third.—If the Police Officer should not appear to conduct the enquiry, the head of the village shall cause the Curnum to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and having procured it to be attested by two or more of the inhabitants who may be present at the investigation, and by the Curnum, he shall forward it to the Police Officer of the district, with the evidence he may have taken.

Fourth.—If on the proceedings of the Head of the village there shall in any case appear ground for suspecting any person or persons, who may be within his jurisdiction, of having committed the murder, the head of the village shall immediately apprehend and send such person or persons to the Police Officer of the district.

XIV. Curnums shall keep registers of persons confined by the Heads of villages under Section X. of this Regulation, and these registers shall be transmitted monthly, by the Heads of villages, to the Police Officers of their respective districts, to be forwarded to the Magistrate.

XV. Village Watchers, by whatever local name distinguished, shall perform their customary police duties under the immediate authority of the Heads of their respective villages, but they shall not be called upon to make compensation for losses by theft.

XVI. In villages where the office of Village Watcher does not exist, and where it appears that the duty cannot be discharged by any of the other village servants, Village Watchers shall be appointed by the Magistrate, and shall as far as possible be selected from the Dhers, Beders, and other castes best qualified for police duties.

XVII. *First.*—The office of Village Watcher wherever it may

be found to exist, and wherever it may be hereafter created under the provisions of the preceding Section, shall be hereditary.

Second.—Upon the death of any Village Watcher, the Head of the village shall report the same to the Police Officer of his district for the information of the Magistrate, and also the name of the person who may have succeeded by inheritance to the office.

XVIII. Village Watchers appointed under Section XVI. of this Regulation, shall be entitled to receive such allowances in land, grain, or money, as Government may allot for their maintenance, and the allowances thus made shall be hereditary in their families.

XXI. Village Watchers shall apprehend persons whom they may discover committing any criminal act or breach of the peace, and carry them before the Head of the village. They shall likewise apprehend, and carry before the Head of the village, all persons charged with committing offences or breaches of the peace, and shall require the prosecutor to accompany them.

XXII. Village Watchers shall report to the Curnum and the Head of the village, all suspicious persons either residing in or passing through the village.

XXIII. Village Watchers shall likewise report to the Curnum, and Head of the village, all information which they may obtain, connected with the peace and good order of the village; and they shall in all things connected with their duty, obey such orders as they may receive from the Heads of their respective villages.

XXIV. Cutwals and their Peons, wherever it may be necessary to employ them, shall be subject to the authority of the Tahsildars and Heads of villages: and shall be directed by their orders in all police duties, in furnishing supplies for travellers, and in the maintenance of the peace.

XXV. *First.*—Tahsildars, or Native Collectors of districts, by whatever name designated, shall ex-officio be Heads of the police of

Sec. XVIII. By Sec. VII. Reg. VI. of 1831.—Village watchers are liable for misconduct to suspension and removal from office by *Collectors*—subject to approval by Board of Revenue.

Sec. XXV. All these functionaries are amenable to the Magistrate subject to appeal to the Board of Revenue. If a Police Officer be dismissed by the Magistrate the appeal lies to

their respective districts; they shall be charged with the maintenance of the peace, and they shall report to the Magistrate all acts which they may do, and all material information which they may receive connected with their police duties.

Second.—The Peshkars, Gomashtas, and Peons, who are or may be employed under Tahsildars of districts, shall perform the duties of Police, as well as Revenue duties, and they shall be considered officers of Police, as well as Revenue Servants.

XXVI. *First.*—Tahsildars shall render all possible assistance to the village Police on, or for, the apprehension of offenders.

Second.—They shall also send Peons to markets, fairs, and other public meetings in their district, in order to preserve the peace.

XXVII. *First.*—Upon a complaint being made to a Tahsildar of any murder, robbery, house-breaking, theft of a considerable amount, or attended with aggravating circumstances, setting fire to a house or other buildings, counterfeiting the coin, or other heinous offence, he shall make such enquiries as may be necessary to ascertain whether any credit be due to the accusation, and if it shall appear to be worthy of credit, he shall immediately make every exertion to apprehend the person or persons who may be accused, or to whom suspicion may attach of having committed the offence.

Second.—When the accused or suspected person shall be brought before the Tahsildar, he shall take down in writing in their presence, the depositions of the witnesses who may be present, and if in the course of the enquiry it shall appear that there are other persons who may be able to give evidence material to the case, he shall summon such persons and take their depositions.

Third.—The Tahsildar shall also receive the confession of the prisoner in any case in which the prisoner may make a free and voluntary confession, and cause the same to be reduced to writing and

the Board of Revenue, as ruled by Government in June 1850—as is the case with hereditary Native Officers of Police, by Sec. VII. Reg. VI. of 1831. The Foujdaree Udalt indeed, under Sec. XXXIX. Act VII. of 1843, may upon report of Session Judge order dismissal of Police Officer, apparently without appeal. Instances of misconduct in Police Officers are to be reported by the Session Court to the Magistrate—but the Magistrate may notice them as he pleases—if he punish, the appeal still lies to the Board of Revenue.

signed, or if the prisoner should be unable to write, marked, by the prisoner in the presence of two or more respectable persons.

Fourth.—So soon as the Tahsildar shall have finished the investigation, which shall be completed within forty-eight hours if possible, he shall forward his proceedings, with the prisoner and witnesses, to the Criminal Judge of the Zillah, with a report—or—if *the offence have been committed by a native British subject, out of the British territories—to the Magistrate.*

Note.—If a delay of more than forty-eight hours should occur, an explanation of the cause of such delay is to be stated at the bottom of the report.

Fifth.—The Criminal Judge shall immediately, on the receipt of such paper, certify on the back of it whether or not the prisoner and documents have been received, and shall return it by the Police Peons to the Tahsildar, and no other communication shall be necessary.—*But he may call for any documents, required to be transmitted to him under Sec. XXVII. which may not be so transmitted.*

XXVIII. If a prisoner should in his confession, made before a Tahsildar, criminate another person, the Tahsildar shall secure such person, and provided the accusation be corroborated by any persons who may appear, or be brought by summons, before the Tahsildar, he shall forward such accused person to the Criminal Judge, together with the witnesses and his proceedings in the case, as is directed in the preceding Section.

XXIX. Upon the arrival of persons charged with any heinous offence, who may have been apprehended and forwarded to the Tahsildar by Heads of villages, the Tahsildar shall proceed as directed in the two foregoing Sections.

XXX. Any Officer of Police or other person maltreating a prisoner, or witness, for the purpose of obtaining information or confession, shall be subject to punishment by the Magistrate according to the nature of the case; and should the offence be of an aggravated

Sec. XXVII. Cl. 3.—“*Respectable Persons*” Government servants were excluded in the original—but the prohibition was rescinded by Sec. II. Reg. V. of 1819.

Sec. XXVII. Cl. 4.—Part in italics added under Sec. II. Act I. of 1849.

Cl. 5. Modified as in italics by Sec. II. Reg. III. of 1817.

nature, the party offending shall be forwarded to the Criminal Judge, to be punished by him, or committed for trial before the Session Court.

XXXI. In cases of bailable offence or misdemeanor, which shall not appear to require the immediate apprehension of the party accused, the Tahsildar shall summon him in writing, and take his declaration, and if necessary the depositions of any witnesses to the truth of the charge; he shall then take security for the appearance of the party accused, together with the accuser and witnesses, on a stated day before the Magistrate, to whom he shall immediately report the case and transmit the depositions.

XXXII. *First.*—In trivial offences bail shall not be required unless there is reason to believe that the party accused means to abscond.

Second.—If the charge in such cases shall appear groundless, or if the parties shall agree in writing, the plaintiff to withdraw, and the defendant to permit the withdrawing of the complaint, the writing being attested by two credible witnesses, the Tahsildar shall dismiss the complaint without making any report thereof to the Magistrate.

XXXIII. *First.*—Where complaints of offences of a trivial nature, such as are specified in Section X. of this Regulation, may be preferred to a Tahsildar in the first instance, he shall enquire into the same, and if the offence be proved, he shall have authority to punish the offender by imposing on him a fine not exceeding *three Rupees—which he may commute to imprisonment not exceeding 3 days without labor*; or if he shall be of any of the lower castes of people, by putting him in the stocks for a time not exceeding 6 hours.

Second.—The Tahsildars shall keep Registers of punishments, as prescribed in Section XIV. of this Regulation, to be forwarded monthly to the Magistrate.

XXXIV. Tahsildars of districts shall reciprocally communicate

Sec. XXXIII. The original has been modified as in italics by Cl. I. Sec. V. Reg. IV. of 1841, and Cl. 2, Sec. V. Reg. XIII. of 1832.—If such punishment appear inadequate, he may report to Magistrate for orders, as provided for in Clauses 2 and 3, Sec. IV. Reg. IV. of 1821, and Act XXXIII. of 1837. *which see*

any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's districts, and shall co-operate in all things for the apprehension of offenders, and the general security of the country.

XXXV. *First.*—Tahsildars, and the Officers acting under them, shall have authority to pursue offenders into whatever district or zillah, they may fly, and to require the Officers of Police in such district or zillah, and if necessary the inhabitants in general, to assist them in securing the offenders; and such Police Officers and inhabitants shall immediately afford the required assistance. Tahsildars and other Police Officers, apprehending persons within a different zillah from that to which they belong, on a warrant from a Magistrate, or in consequence of a pursuit, on a hue and cry, raised against such persons, shall bring them before the Magistrate of the zillah, in which they may be apprehended, and report the cause of the seizure of such persons. If such persons shall be apprehended under a warrant issued by the Magistrate of another zillah, and the Magistrate of the zillah in which they may be apprehended, shall be satisfied of the identity of such persons with those intended by the warrant, he shall affix his signature to such warrant, which shall be a sufficient authority for the Police Officers to convey the offenders from the zillah in which they may be apprehended, to the Magistrate in whose jurisdiction the offence may have been committed. But if the persons apprehended, and brought before such Magistrate, shall appear not to be those intended by the warrant, he shall forthwith cause them to be released.

Second.—If the parties shall be apprehended without a warrant, on information given to the Police Officers, or on hue and cry, the Magistrate, within whose jurisdiction they may be apprehended, shall investigate the case, and if he shall be satisfied that there is sufficient cause for bringing the parties before the Magistrate in whose jurisdiction it may be alleged that they have committed offences, he shall forward them with a letter to such Magistrate; but if the Magistrate shall be satisfied that the alleged offence or offences have not been committed, or that there is no ground to suspect the persons apprehended to have been concerned in committing such offence or offences, he shall forthwith cause them to be discharged.

XXXVI. The Tahsildar, in all cases of murder, within his district, shall himself, if possible, proceed to the spot, examine the body, the place where it was first found, and all other circumstances that may be likely to lead to the discovery of the perpetrators of the crime.

XXXVII. Where Tahsildars may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with, unless prompt measures be taken to secure it, they shall cause search to be made, and the property, if found, to be secured and forwarded with the offender to the Magistrate. If the place of concealment be a dwelling house, the search shall be made only between sun-rise and sun-set.

XXXVIII. In districts where, from the land rent being paid directly to the Collector, there may be no Tahsildars, the Magistrate shall grant to the most respectable Native Revenue servant employed in the collection of the customs, or other dues of Government, the same police authority as is vested in Tahsildars. But in the ancient zemindaries, whose revenues have always been under the exclusive management of the Zemindars themselves, the Magistrate shall not establish any Police Officer, except in such places as Darogahs may have already been established, without the previous sanction of the Governor in Council.

XXXIX. Magistrates are authorised to grant, upon their own responsibility, to Zemindars, who may be desirous of acting as Heads of police, and whom they may consider to be qualified for the office, sunnuds to act as such within the limits of their respective zemindaries only. The Magistrate shall prescribe to the Zemindars, in their commissions, the whole or such part of the duties and authority vested by this Regulation in Tahsildars, as they may deem proper.

XL. In large towns, where it may be found that the police duties cannot be conducted by the Head Inhabitant, the Magistrate shall appoint a person to act as Ameen of Police, either immediately under his own orders, or under the Tahsildar of the district.

Sec. XXXVI. Persons aware of the discovery of a body bearing signs of violence are bound to give information to the Police, and parties putting such body out of the way, without giving such information, to an officer empowered to hold an inquest, are "liable to be proceeded against for a misdemeanor".—*F. U. 12th Oct. 1836, C. R. No. 39.*

Sec. XL. Such Ameens of Police are vested with all the Police, and criminal judicial powers of Tahsildars, by Act XXX. of 1837.

XLII.—No Police Officer shall entertain complaints of petty offences, unless such complaints shall be preferred within three months from the date of the act complained of. It shall be at the option of the parties however, to prefer complaints of such petty offences to the Magistrate at any time, and if the delay shall be shown to have been unavoidable, the Magistrate shall have authority to receive and investigate such complaints.

XLIII.—All persons are authorized and directed to secure strangers, or suspicious persons, who may be found offering property for sale, or in pawn, at a price evidently below its real value, or removing property under suspicious circumstances at an unseasonable hour of the night, and to bring them with the least possible delay before the Police Officer of the jurisdiction in which the offence may be committed.

XLVI.—Tahsildars and other Police Officers acting under them, shall not take cognizance of cases of adultery or fornication.

XLVII.—The Magistrate shall be charged with the maintenance of the peace, within their respective Zillahs; and whenever their establishments may be insufficient to resist banditti, or other disturbers of the public peace, they shall apply for assistance to the nearest military station.

XLVIII. The Police establishment which may be transferred to the Collectors as Magistrates, shall not be considered as distinct from the Revenue establishments, but shall be equally employed in Police and Revenue duties, as occasion may require.

XLIX. The Magistrate shall require all manufacturers of fire-arms and offensive weapons, to take out licenses from their offices within a certain day, of which due notice shall be given; and any person who shall be found after that period manufacturing such weapons without license, shall be liable to be punished by the Magistrate by a fine not exceeding 50 Rupees. But nothing in this Section shall be construed to prohibit the manufacture of arms, or the inhabitants from keeping them for their defence.

L. Magistrates shall reciprocally communicate any information

Sec. XLVII. *Apply for assistance.*—The application should state in writing, as fully and circumstantially as practicable, the nature of the service required to be performed, to the Officer commanding the Corps, or Detachment, from which the aid is to be furnished; leaving it to the Commanding Officer, on consideration of the circumstances stated, to judge of the strength of the force which should be employed in the execution of the duty in question.—*Beng. Reg. XI. 1806, Sec. XIV. Cl. 1.*

which they may receive of offences committed ; or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's districts, and shall co-operate in all things for the apprehension of offenders, and the general security of the country.

LI. *First.*—The Magistrate, and under his orders the Tahsildars and heads of villages, shall have authority to prevent the forcible occupation or seizure of lands or crops.

Second.—When riotous assemblages are formed in consequence of disputes respecting the right of ploughing any waste or uncultivated lands, which may not be in the possession or occupation of any person, the Magistrate, and under his orders, the Tahsildars and heads of villages, shall have authority to determine who shall plough them for the present, in order that cultivation may not be impeded by the land being kept uncultivated, while the trial which the parties may seek is depending. But in all the cases specified in this Section, the parties shall be at liberty to seek redress from any competent jurisdiction.

Third.—The provisions of the two preceding Clauses shall be considered as equally applicable to the forcible occupation or diversion of water for cultivation.

LIII. Magistrates are authorized to determine the rates of hire to be paid in their respective districts by travellers to Palankeen bearers, coolies, and boatmen, and for draught and carriage cattle ; and the rates so determined shall be made public by a table authenticated by the signature of the Magistrate, copies of which shall be kept by the Police officers, at the several stations in the district, for reference. Provided however, that the resident inhabitants, in their ordinary transactions, shall not be bound to abide by the rates specified in the tables authenticated as aforesaid.

LIV. Magistrates shall have authority to receive complaints regarding frauds committed in using false weights and measures, and in such cases shall proceed as directed in Section XXXII. Regulation IX. of 1816.

LV. No order shall be issued to any Police officer, excepting by the Magistrate of the zillah, or his Assistants.

LVI. The Magistrates shall correspond direct with Government in matters of Police, whenever they may deem it necessary.

Sec. LV. But they may be communicated with by the Criminal Courts for the purpose of obtaining evidence.—See Sec. XLII, Act VII, of 1843

REGULATION III. OF 1817.

A Regulation for explaining and modifying certain provisions of Regulations IX. X. and XI. of 1816.

II. The Criminal Judge may call for any documents required to be transmitted to him by the magistrate under Section XXV. Regulation IX. of 1816, or by a Police officer under Section XXVII. Regulation XI. of 1816, which may not be so transmitted : and it is hereby declared that nothing in the existing Regulations is intended to prohibit a full and free communication between the Criminal Judge and Magistrate on all subjects connected with the discharge of their respective duties, in those capacities.

III. In any case requiring the immediate interference of the Magistracy, when there may not be a Magistrate or assistant Magistrate present at the Zillah Station, it shall be competent to the Criminal Judge to do all acts necessary for preserving the public peace or securing public offenders, which it would be competent to the Magistrate in such case to do ; and it shall be the duty of all Police officers to afford him the most prompt and effectual aid.

REGULATION I. OF 1818.

A Regulation to provide for the more effectual administration of Criminal Justice in certain cases, and to alter certain provisions of the Regulations in force.

III. *First.*—In trials before the Session Courts for adultery, rape, or any other offence within the provisions of the Mahomedan Law for cases of *zina* and *fiat-i-shunea*, the futwah of the law officer of the Session Court before which the trial may be held, shall declare only whether the prisoner be legally convicted, or if not, whether there be strong grounds of presumption that he is guilty of the crime charged against him.

Second.—If the futwah so given shall declare the prisoner legally convicted, or that there is strong presumption of his guilt, the Session Judge, provided he concur in the opinion declared in the futwah, shall either pass sentence against the prisoner, or refer the trial for the sentence of the Foujdaree Udalut, according as the circumstances of the case shall appear to render it referrible or otherwise, under the Regulations in force.

Third.—If the prisoner be convicted, either on full legal evidence or on strong presumption, of the heinous crime of rape, the Session Judge shall not pass any sentence, but shall refer the trial for the sentence of the Foujdaree Udalut.

Fourth.—In cases of adultery it shall be requisite that the charge be made and prosecuted exclusively by the husband against the wife, or by the wife against the husband.

IV. *First.*—Any person who may be convicted of having deliberately and maliciously intended to murder one individual, and of

Sec. IV. Cl. 1 "*Consider*,"—In original "*require their Law Officers to declare*"—thus modified by Act I. of 1840, "*in their judgment*" in original—"under their *Futwah*."

having, in the prosecution of such intention, caused the death of the person whom he had intended to murder, in a manner different from that in which he had intended to cause his death (as where the instrument of perpetration may pass by the person aimed at and kill him on a rebound,) or of having accidentally killed another individual, shall be liable to suffer capital punishment, in like manner as if the act had been committed as originally intended by him. In all such cases the Session Courts, provided they concur in the conviction of the prisoner shall transmit the proceedings to the Court of Foujdaree Udalut, the Judges of which Court, if they consider the prisoner to be convicted of such murderous intention, and subsequent actual homicide, *shall consider* to what punishment the prisoner would have been liable, under the Mahomedan Law if the homicide had been committed as intended by the prisoner; and if *in their judgment* he is liable to suffer death, or if under the modifications of the Mahomedan Law contained in the Regulations, the prisoner be liable to suffer capital punishment, the Court of Foujdaree Udalut shall proceed on the case as prescribed by the Regulations in force.

Second.—In like manner, any person who may be convicted of having unlawfully and maliciously intended to wound, maim, or otherwise do corporal injury to one individual, and of having in the prosecution of such intention, wounded such individual in a manner different from that in which he had intended to wound him, (as where the instrument may pass by the person aimed at and wound him on a rebound,) or of having accidentally wounded, maimed, or otherwise corporally injured another individual, shall be held punishable for the act committed by him with such unlawful and malicious intention, in like manner as if such act had been committed as intended by him. The Law Officers of the Courts of Session shall in such cases be required to state the punishment to which the prisoner would have been liable if he had committed the act as intended by him, and the Session Courts shall pass sentence accordingly, or refer the trial to the Court of Foujdaree Udalut, as the case may be referrible or otherwise, under the general Regulations.

Third.—In trials referred under the preceding Clause to the Court

Cl. 3. "*Consider.*"—In original "*Law Officers shall declare*" "the same"—in original "*Futwah*" thus modified by Act I. of 1840.

of Foujdaree Udalt, *that Court shall consider* to what punishment, according to the Mahomedan Law, the prisoner would have been liable if the Act of which he is convicted had been committed as intended by him; and the Court after considering *the same* and the whole of the circumstances of the case in evidence before them, shall proceed according to the provisions of the general Regulations.

Fourth.—The provisions contained in Clause second, Section XV. Regulation VII. of 1802, regarding *Kutl-i-Khota* and other cases of accidental homicide, are to be considered to be in force as heretofore, with regard to all cases of accidental homicide not coming within the intent and meaning of the first Clause of this Section; provided, however, that the Session Courts shall not adjudge any punishment in any such case of accidental homicide, although the deyt should be declared to be payable under the Mahomedan Law, if the homicide shall clearly appear to have been committed by misadventure in the prosecution of a lawful act, and without any malignant intention.

VI. In modifications of the provisions contained in Section XXII. Regulation IX. of 1816, regarding payment of specific rewards, it is hereby enacted that all specific rewards offered for the apprehension of robbers proclaimed by name shall be payable on the delivery of the persons so proclaimed to the Zillah Magistrate by whom the proclamation may have been issued, or to the Magistrate in whose jurisdiction they may have been apprehended.

REGULATION IX. OF 1818.

A Regulation for rescinding such part of Section XLI. Regulation XI. of 1816, as may be construed to restrict the authority of Assistant Magistrates to the towns in which they may be deputed to reside.

II. Such part of Section XLI. Regulation XI. of 1816, as may be construed to restrict the authority of Assistant Magistrates to the towns in which they may be respectively deputed to reside, is hereby rescinded ; and Zillah Magistrates are hereby declared to be authorized to delegate to their Assistants the whole or any part of their duty as Magistrates, and to depute them to hold their offices in any of the districts within their several jurisdictions which may be deemed proper.

REGULATION II. OF 1819.

A Regulation for the confinement of State Prisoners.

II. When the reasons stated in the preamble to this Regulation may seem to the Governor in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Second.—The warrant of commitment shall be according to the form prescribed in the Appendix to this Regulation.

Third.—The warrant of commitment shall be sufficient authority for the detention of any state prisoner, in any fortress, jail, or other place, within the territories subject to the Presidency of Fort St. George.

III. Every officer in whose custody any state prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor in Council, through the Chief Secretary to Government, on the conduct, the health, and the comfort of such state prisoner, in order that the Governor in Council may determine whether the orders for his detention shall continue in force, or shall be modified.

IV. *First.*—When any state prisoner is in the custody of a Criminal Judge, the Session Judge is to visit such state prisoner, and

Reg. II. of 1819. This is identical with Reg. III. of 1818 in the Bengal Code—which latter enactment was *superfluously therefore*, extended to Madras by Act XXXIV. of 1850, which further declared that its provisions should have effect within the limits of the Supreme Court.—The Agents of the Governor in Ganjam and Vizagapatam, may make commitments under this Regulation, under Sec. VII. Act XXIV. of 1839.

Sec. II. *Reasons.*—“Reasons of State Policy” rendering restraint of individual necessary, against whom there may not be sufficient grounds for judicial proceedings; or when such proceedings may be unsuitable to the nature of the case, inadvisable, or improper.

to issue any orders concerning the treatment of the state prisoner which may appear advisable, provided they be not inconsistent with the orders of the Governor in Council issued on that head.

Second.—When any state prisoner is placed in the custody of any public officer not being a Criminal Judge, the Governor in Council will instruct either the Criminal or Session Judge, or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government, regarding the health and treatment of such prisoner.

V. The officer, in whose custody any state prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such state prisoner may, from time to time, be desirous of submitting to the Governor in Council.

VI. Every officer, in whose custody any state prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council, whether the degree of confinement to which he may be subjected, appears liable to injure his health; and whether the allowance fixed for his support, be adequate to the supply of his own wants, and those of his family according to their rank in life.

VII. Every officer, in whose custody any state prisoner may be placed, shall take care that the allowance fixed for the support of such state prisoner is duly appropriated to that object.

IX. Whenever the Governor in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any Zemindar, Jagheerdar, Talookdar, or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Civil and Session Judge of the district, in which the lands or estates may be situated; and to the Sudder and Foujdaree Udalut.

X. *First.*—The lands or estates which may be so temporarily attached, shall be held under the management of the officers of Government in the Revenue department, and the collections shall be

made and adjusted on the same principles as those of other estates held under Khas management.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Third.—In the cases mentioned in the preceding Clause, the Government will make such arrangements as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

XI. Whenever the Governor in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary, have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections, during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

A P P E N D I X.

FORM OF WARRANT OF COMMITMENT.

To the (here insert the Officer's designation.)

Whereas the Governor in Council for good and sufficient reasons, has seen fit to determine that (here insert the state prisoner's name) shall be placed under personal restraint at (here insert the name of the place), you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor in Council, and the provisions of Regulation II. of 1819.

FORT ST. GEORGE, *the*

By order of the Governor in Council.

A. B.

Secretary to Government.

REGULATION III. OF 1819.

A Regulation to provide more effectually for the punishment of extortion, oppression, or other abuse of authority on the part of Native officers of Police.

III. *First.*—For extortion, oppression or other abuse of authority, all Native officers of Police shall be liable to be sued in a Zillah Court, or to be prosecuted in a Court of Criminal Judicature.

Second.—Whenever a charge of this nature may be preferred before a Magistrate, and be proved by sufficient evidence to his satisfaction, he is hereby empowered to punish the offender by a fine not exceeding 50 Rupees, or by imprisonment for a term not exceeding one month.

Third.—In all cases wherein the measure of punishment specified in the preceding Clause shall appear to be insufficient, the party accused shall be forwarded to the Criminal Judge, to be by him dealt with according to the provisions of the General Regulations.

REGULATION I. OF 1820.

*A Regulation * * for prescribing the rules under which Arrack, Toddy, and other spirituous and fermented Liquors, shall be manufactured and sold within the Territories subject to the Presidency of Fort St. George, without the limits of the Jurisdiction of the Supreme Court of Madras.*

III. All persons are forbidden to manufacture or sell rum, arrack, or other spirits, or toddy or other fermented liquors, except in conformity with the provisions of this Regulation.

IV. *First.*—The Board of Revenue are hereby authorized to empower Collectors to grant to Europeans, descendants of Europeans, Armenians, or other persons whom such Collectors may approve, licenses to establish, in such places as may appear to the Board to be proper, distilleries for manufacturing rum, arrack or other spirits, by process of distillation similar to the European system; and such licenses shall accordingly be issued by the Collectors under their official signature, on the parties to whom they may be granted executing counterparts of such licenses, to be lodged with the said Collectors respectively.

Fifth.—Any person who shall be found working a distillery of the kind above specified, without obtaining a license, or after the period for which his license was granted, and before obtaining a renewal thereof, or after the forfeiture thereof, shall, on proof of the fact before the Criminal Judge of the Zillah, forfeit all the spirits manufactured at such distillery, together with all the stills, vessels and

Reg. I. of 1820. For law relative to Abkarree generally, *see* this regulation *passim*, and also Acts XXIII. of 1841, and XXXII. of 1845, and within limits of Military Bazaar Stations, Sec. XLIII.—XLVII. and Sec. XVI. Reg. VII. of 1832 under "Military Police, &c."

Sec. IV. *Licenses.*—Further directions in respect of their form, and stipulations, are given in Sections II. and III. Act XXXII. of 1845.

other moveables appertaining thereto; and also the sum of two Rupees, for every gallon which each still in such distillery is calculated to contain, for each day in which he shall appear to have worked such still, in the said distillery, without a license.

V. *First*.—The Board of Revenue are hereby authorized to empower Collectors, either to retain the exclusive privilege of manufacturing country arrack, toddy and other fermented liquors as well as the retail sale of foreign or country manufactured spirits, toddy and other fermented liquors, in their respective districts, under their own immediate management on account of Government, or to rent out those privileges, jointly or separately, for such periods as may be deemed eligible.

Second.—The Board of Revenue are also authorized and directed to frame rules, and from time to time as occasion may require, to alter, amend, and enlarge such rules, for regulating the exclusive manufacture and sale of country arrack, toddy and other fermented liquors, and the exclusive sale of foreign spirits; and for determining the places, at which stills and shops shall be erected, and the number of such in each Zemindary or other division of territory; the rates to be established, and measures to be used in the sale of such spirits and liquors; the due publication of such rates and measures; and generally all matters, relating to the detailed management and control of such distilleries and shops.

VI. *First*.—Forms of licenses for renting out the exclusive privilege of manufacturing country arrack, toddy or other fermented liquors, and of retailing spirituous liquors, shall be prepared by the Board of Revenue; and no renter shall be allowed to establish a still or shop until he shall have obtained such license from the Collector of the district, and executed a counterpart thereof to be lodged with the said Collector.

Second.—The license shall specify the amount of rent by the year to be paid during the period for which the rent is farmed; the amount of the kists; and the times when they are to be discharged; the minimum price at which the liquor is to be sold; the number of stills and shops to be established, and the places at which they are to be fixed. The license shall likewise contain stipulations that the renter shall not allow any noxious ingredients to be used in the

preparation and manufacture of liquor, and that he shall use his best endeavors to prevent all forbidden and improper practices at the shops to be opened under his license.

Third.—Muchilkas or engagements shall be prepared by the Board of Revenue to be translated into the country languages, particularizing the rules to be observed by persons employed by the renters to superintend distilleries or shops for the manufacture or vend of spirituous liquors.

Fourth.—The Muchilkas of persons entrusted with the superintendence or management of distilleries shall specify, that they will not mix or knowingly permit to be mixed in the liquors distilled at the stills under their charge respectively, any ingredient pernicious to health, such as chunam, oomittakoy, or other material intended to increase the power of the spirit, or to add to its intoxicating quality.

Fifth.—The Muchilkas of persons in charge of shops for the retail sale of spirits shall contain stipulations necessary to prevent such shops from becoming places of drunkenness, or the haunts of thieves or persons of notoriously bad character, and shall forbid the receiving of grain, goods, wearing apparel, or other effects in barter or pawn for liquor, and likewise the selling of liquor to European soldiers and sailors.

Sixth.—Every person placed by the renter, or by the Collector when the abkarry is retained in his management, in charge of a still or shop, shall sign in duplicate the Muchilka mentioned in the foregoing clauses, after the same shall have been read over by him, or read and explained to him if he is unable to read it himself. Two creditable persons shall be present when the Muchilka is acknowledged and executed by him, and shall sign their names in testimony of such acknowledgment; one copy of the said Muchilka shall be deposited with the Collector, and the other shall be fixed up in some conspicuous place of the shop or distillery.

Seventh.—Persons charged with having mixed or permitted to be mixed, noxious ingredients with the liquors, prepared or distilled by them, or under their directions, shall be committed for trial before the Session Court, and on conviction of such offence, shall be subject

Sec. VI. Cl. 7.—The admixture of water with such liquor is punishable under Sec. VII. Reg. X. of 1810.—F. U. 19th January 1857.

to imprisonment and hard labor on the public roads, for a period not exceeding three years.

Eighth.—Persons convicted before the Magistrate of permitting drunkenness and riot in their shops, or of harbouring thieves or persons of notoriously bad character, or of bartering or pawning liquor for grain, wearing apparel or other effects, shall be sentenced to pay such fine, not exceeding two hundred Rupees, as may appear to the Magistrate an adequate punishment for their offence; the amount of such fine to be levied by distress and sale of the property of the offender; or, if no property of such offender be found, or not sufficient to pay the amount of such fine, or otherwise in default of the payment of such fine, such offender shall be sentenced to imprisonment for such time, as may appear to be a fair commutation for such fine or portion of the fine, as may be due: provided that such imprisonment shall in no case exceed six months.

Ninth.—Any person who shall erect a still, or establish a shop, or sell liquor without a license, or at any other place or places, than the place or places mentioned in his license, and kabooleat, or after the expiration of his license, and before having obtained a renewed license, shall, on conviction before the Criminal Judge, be sentenced to pay such fine, not exceeding four hundred Rupees, as may appear adequate to his offence; the amount of such fine to be levied by distress and sale of the property of the offender, or if no property of such offender be found, or not sufficient to pay the amount of such fine, or otherwise in default of the payment of such fine, the offender shall be sentenced to imprisonment and hard labour for such time, as may appear to be a fair commutation for such fine or portion of the fine, as may be due: provided that for such fine the imprisonment shall in no case exceed twelve months.

VII. Collectors shall, on requisition made to them to that effect, furnish Criminal Judges of their respective Zillahs, with lists of the names and residence of all persons authorized to work stills or superintend shops under any of the provisions of this Regulation, specifying the places at which such persons are permitted to establish stills or shops.

VIII. Collectors are empowered to proceed against renters under this Regulation for the recovery of arrears due by them, in like

manner as for the recovery of arrears from defaulters in the land revenue.

IX. First.—Persons who shall have rented the exclusive manufacture or sale of spirituous liquors, are hereby declared to be authorized to sub-rent their farms on such pecuniary terms as they may respectively agree upon.

Second.—It is hereby declared that the engagements to sub rent abkarry privileges and farms: as well as receipts and acknowledgments between renters and sub renters, are not required to be written on stamped paper, but shall be exempt from stamp duty in the same manner as instruments of correspondent descriptions which have relations to lands subject to the payment of revenue to Government, are exempt therefrom under clause 1st, Section XII. Regulation XIII. of 1816.

Third.—Sub renters of the privilege of distilling or selling spirituous liquors, shall respectively execute, in the mode prescribed in clause 6th, Section VI. of this Regulation, the Muchilka enjoined to be entered into by persons engaged in distilling or selling spirituous liquors.

X. Renters under this Regulation are authorized to proceed against sub renters for the recovery of arrears in the same manner as it is prescribed, that recovery of arrears of the land revenue shall be recovered by land holders from their tenants.

XI. First.—The transit of any quantity, exceeding one seer, of spirituous liquor without a permit, is hereby prohibited; and all persons, not being renters, or officers of Government authorized to dispose of spirituous liquors, are prohibited from having in their possession any quantity thereof exceeding one seer without a valid permit.

Second.—Permits for the transit of spirituous liquors, shall be issued only by the Collectors, subordinates, or their assistants, or by abkarry renters, or their sub-renters. Each permit so issued shall specify the quantity of liquor, which it is intended to protect; the name of the person to whom, and the period for which, it is granted; the place from which the liquor is to be removed, and the place to which it is to be carried.

Third.—The permit of a Collector or his assistant shall pass any

quantity of spirituous liquor, and shall be held valid throughout the territories subject to the Government of Fort St. George, the permit of an abkarry renter, or of his sub-renter, shall not pass more than 150 gallons of spirituous liquor, or one leaguer; and shall not be held valid beyond the boundaries of his own farm. To protect the transit of spirituous liquor exceeding 150 gallons, or one leaguer, not produced within the boundaries of his farm, a renter, like other individuals, must apply for a permit, to the Collector, his subordinate, or assistant.

XII. In order to confine the retail sale of spirituous liquors exclusively to the officers of government, or to renters or sub-renters authorized to sell the same, the Collectors and their assistants are hereby prohibited from granting permits for any quantity of spirituous liquors less than two leaguers, except to abkarry renters or sub-renters; or to their own agents for the sale of liquor on account of Government, or to European gentlemen, on account of liquor for their private use; but Collectors or their assistants may issue permits for the custody, or transit, of any quantity of liquor exceeding that abovementioned, to wholesale dealers or others possessed of, or desirous of purchasing, the same.

XIII. *First.*—Collectors shall be at liberty to demand from those who may have in custody more than two leaguers of spirituous liquor, full and ample security that the same shall not be disposed of in any quantity less than two leaguers, except to the renters, sub-renters, or officers of Government.

Second.—In the event of the persons in whose custody such liquor may be placed, not producing security which the Collector may deem satisfactory, the Collector, shall be at liberty to place his seal upon the doors of the premises where the same may be deposited, and to secure them further by a lock and key. The owner however, with the privy of the Collector, shall continue to have access to his property at all reasonable times; it being understood that the charge and custody of the liquor shall remain with him, and that the seal and lock of the Collector are merely intended to prevent the illicit removal or sale thereof.

XIV. All spirituous liquor passing through the territories under this Government, without the limits of the Supreme Court of Judica-

ture at Madras, unaccompanied by a valid permit, or materially differing from the quantity specified in the permit, and all spirituous liquors found in the possession of wholesale dealers or others, not being renters or officers of Government, authorized to dispose thereof, without the party possessing a valid permit, shall be liable to be confiscated by the Collectors, subject to the orders of the Board of Revenue : one-third of the proceeds, when confiscated, shall be carried to the account of Government, and the remainder shall be divided between the informer and the person making the seizure, in such proportion as the Collector, under the orders of the Board of Revenue, may deem just and proper.

XV. All persons passing spirituous liquor unaccompanied by a valid permit, or materially exceeding the quantity specified in the permit ; all persons attempting the same ; all persons having in their possession spirituous liquors exceeding one seer without a valid permit ; and all persons who, without the privity of the Collector, shall remove the seal or lock, which he is authorized by Section XIII. of this Regulation to place on the doors of certain premises, shall, on proof thereof before the Criminal Judge, be liable to the payment of a fine, in no case exceeding five hundred Rupees, and in default of payment, to imprisonment for a period not exceeding twelve months.

XVI. *First.*—Magistrates are hereby authorized to issue search warrants for the discovery of unlicensed stills, or of spirituous liquors illicitly sold, manufactured, or deposited, in any place ; whenever information may be given to them on oath, or solemn affirmation, or obtained by them from proceedings holden in any investigation before them, or from any credible source, that such illicit manufacture, sale, or transport, has taken place.

Second.—Provided always, that no such search warrant shall be executed, but between sunrise and sunset, nor in the apartments of women of respectability and credit who do not ordinarily appear in public, except by women who shall be specially deputed by the Magistrate to execute such warrant.

REGULATION II. OF 1820.

A Regulation for giving greater publicity to certain Clauses of the Act 53, Geo. III. C. 155.

II. The following Clauses of the Act 53, Geo. III. C. 155, shall be translated, and published for the information of the Native inhabitants of the territories subject to the Presidency of Fort St. George, viz. :—

CV. “Whereas His Majesty’s British subjects resident in the British territories in India, without the towns of Calcutta, Madras, and the town and Island of Bombay, are now, by law, subject only to

Sec. II. Reg. II. of 1820.—53, Geo. III. Cap. 155, Sec. 105. Under this enactment a *Magistrate* not being a “Justice of the Peace” has jurisdiction,—but all Magistrates must qualify as Justices of the Peace, and complaints made under this provision, may always result in circumstances which render necessary the exercise of the powers of a Justice of the Peace—in the committal of the accused. The Government it is to be observed have directed—G. O. 23rd Dec. 1834, *Fort St. George Gazette* 1834, p. 916—that complaints, of the nature herein referred to, against European British subjects, shall, if at a Court Station, be preferred to the “Criminal Judge” in his capacity of “Justice of the Peace,” rather than to the “Magistrate,” under the jurisdiction hereby given to him. An Appeal, whether from the Magistrate acting as such under this law, or from him, or the Criminal Judge, acting as Justices of the Peace, lies to the Session Judge, whose decision cannot be reversed or quashed by writ of certiorari.—*See Act IV. of 1843*, but an Appeal lies to the Foujdaree Udaltut.

This enactment applies only to cases of assault and trespass by European British subjects on Natives, and not to cases where both parties are Europeans.—*F. U. 26th May 1837, C. R. No. 633.*

At the station of the Zillah Court the powers of the Justice of the Peace should be exercised ordinarily by the *Subordinate Judge*—and by the Magistrates and Joint Magistrates at other places within the limits of their ordinary jurisdiction respectively—excepting at Military stations, where the Superintendent of Police is in the commission of the Peace; at which stations, unless they be also stations of Zillah Courts, the functions of Justice of the Peace should be exercised ordinarily by the Superintendent of Police.—*G. O. G. 6th January 1835, in F. U. 9th idem.*

It is intended by the order of 6th January 1835, that the Magistrate should exercise the powers of Justice of the Peace at the stations of the Zillah Courts in cases of complaints of assault against Europeans that may have taken place beyond such station.—*F. U. 19th Oct. 1836.*

During the absence of a Subordinate Judge from the Zillah station, it is the duty of the Magistrate, or Joint Magistrate, in his capacity of Justice of the Peace, to receive and dispose of cases, arising at the station of the Zillah Court: and having once entered upon the investigation of a case, it is no longer competent for him to transfer it to the Subordinate

" the jurisdiction of His Majesty's Courts at Calcutta, Madras, and Bombay respectively, and are exempted from the jurisdiction of the Courts established by the said United Company within the said territories, to which all other persons, whether Natives or other inhabitants in the said territories without the limits of the towns aforesaid, are amenable : and whereas it is expedient to provide more effectual redress for the Native inhabitants of the said territories, in the case of assault, forcible entry, or other injury accompanied with force, which may be committed by British subjects at a distance from the places where His Majesty's Courts are established, be it therefore enacted, that it shall and may be lawful for any Native of India, resident in the East Indies, or parts aforesaid, and without the said towns, in case of any assault, forcible entry, or other injury accompanied with force, alleged to have been done against his person or property by a British subject, to complain of such as-

Judge for disposal, should the latter officer in the mean time return, or arrive at the station.—*G. O. G. 29th Sept. 1837, in F. U. 12th Oct. 1837.*

It was provided by Sec. II. Reg. IV. of 1809, the rest of which, has been either directly or virtually repealed, that " the Governor in Council, in cases in which European British subjects may be committed to take their trial before the Supreme Court at Madras—shall, if he consider it necessary, from the aggravated nature of the offence charged against the person accused, or on any other substantial ground, order the prosecution to be conducted by the Law officers of Government, at the public expense."

In connexion with this subject, the following constructions of the Nizamut Udalut in Bengal will be interesting :

There appears no reason why a European British subject, charged by a Native with assault under 53, Geo. III. Cap. 155, Section 105, should not be allowed the privilege of appearing by Attorney, which is enjoyed by Natives.—*Cons. No. 570, 30th July 1830.*

An assistant to a Magistrate is not competent to take cognizance of complaints against European British subjects to the extent specified in 53, Geo. III. Cap. 155, Sec. 105, as the power in question can only be exercised by a person possessing the full powers of Magistrate.—*Cons. No. 595, 17th June 1831.*

Any Officer exercising the full powers of Joint Magistrate, is competent to take cognizance of charges against European British subjects, under 53, Geo. III. Cap. 155, Sec. 105 ; *C. O. No. 57, 3rd Sept. 1830 ; Cons. No. 900, 12th Sept. 1834.*

If two or more distinct offences of this nature be charged separately, the Court are aware of no reason why the sentences on conviction should not also be separate. The Court further observed that in such cases, confinement was authorized only in default of payment of fine ; and if on investigation, the Magistrate was of opinion that the offender ought to be brought to trial before the Supreme Court, he should proceed in the usual manner, referring the case for the information and orders of Government.—*Cons. No. 632, 8th April 1831.*

On requiring security on a recognizance to keep the peace from a European British subject, the Magistrate is not restricted as to the amount by the penalty he is authorized to levy from such European British subject by 53, Geo. III. Cap. 155, Sec. 105, as in the event of a breach of the peace occurring, the Magistrate cannot levy the penalty of the bond, the only place of proceeding for the forfeiture of the penalty is the Supreme Court.—*Cons. No. 826, 6th Sept. 1833.*

“sault, forcible entry, or other injury accompanied with force, not being felony, to the Magistrate of the Zillah or district where the alleged offender shall be resident, or in which such offence shall have been committed ; and that such Magistrate shall have power and authority, at the instance of the person so complaining, to take cognizance of such complaint, to hear parties, to examine witnesses, and, having taken in writing the substance of the complaint, defence, and evidence, to acquit or convict the person accused ; and in case of conviction, to inflict upon such person a suitable punishment, by fine, not exceeding five hundred rupees, to be levied in case of non-payment by warrant under the hand of the said Magistrate, and upon any property, of the party so convicted, which may be found within the said district ; and if no such property shall be found within the said district, then it shall be lawful for the said Magistrate, by warrant also under his hand, to commit such offender to some place of confinement within the said Zillah or district, which in the judgment of the said Magistrate shall be fit for receiving such offender ; or if there shall be no fit place of confinement, then to the gaol of the Presidency, to remain there for a period not exceeding two months, unless such fine shall be sooner paid ; and it shall be lawful for the said Magistrate to award the whole or any portion of such fine to the party aggrieved, by way of satisfaction for such injury : Provided always, that all such convictions shall and may be removable by writ of *certiorari* into H. M. Court of Oyer and Terminer and Gaol delivery respectively, in the same manner, and upon the same terms and conditions, and shall be proceeded upon in the same manner in every respect as is directed in the said Act of the thirty-third year of His Majesty's reign, with regard to other convictions before justices of peace in the British settlements or territories in India : provided also, that nothing herein contained shall extend, or be construed to extend, to prevent such magistrate from committing or holding to bail any British subject, charged with any such offence before him in the same manner as such British subject might have been committed or holden to bail if this Act had not been passed, where the offence charged shall appear to such magistrate to be of so aggravated a nature as to be a fit subject for prosecution in any of His Majesty's Courts to which such British subject may be amenable.”

REGULATION IV. OF 1821.

A Regulation for giving greater efficiency to the system of Police established in the Provinces subordinate to the Presidency of Fort St. George.

II. *First.*—In modifications of the provisions of Section XL. Regulation XI of 1816, it is hereby declared competent to Magistrates to extend, at their discretion, the local limits of the Jurisdiction of Ameens of Police to any distance they may see fit beyond the towns to which such Ameens have been, or may be appointed.

Second.—Ameens of Police, and generally all subordinate officers of Police of every description, shall be subject to the authority of the Tahsildars of their several districts; and shall perform all such revenue duties as may be assigned to them by the Collectors or Tahsildars under whom they serve.

III. *First.*—Magistrates shall select such number of competent subordinate officers belonging to their district establishments, as may appear to them necessary to perform in different parts of each talook the police duties assigned to Tahsildars and other head officers of Police by Sections XXVII., XXVIII., XXIX., XXXI., XXXII., XXXVI., and XXXVII. of Regulation XI. of 1816; and all acts done in conformity with the provisions of the enactments here referred to by the persons so selected, shall be valid.

Second.—The subordinate officers referred to in the foregoing Clause shall forward to the heads of Police of their respective districts, all examinations, depositions, and confessions, that may be taken by them,

Sec. II. Ameens of Police to possess the same criminal judicial powers as Tahsildars, under Act XXX. of 1837.

together with the prisoners and witnesses in every case which they may investigate, in order that the said heads of Police may transmit them to the magistrate, or the Criminal Judge, in conformity with the existing Regulations.

Third.—The persons who may be selected under the provisions of this Section, shall not have authority to inflict punishment of any kind, nor to hear or determine complaints for petty offences, and they shall be subject to the authority of the Tahsildars of their respective districts.

IV. *First.*—Heads of district Police are hereby empowered to hear and determine cases of petty theft, not attended with aggravating circumstances, nor committed by persons of notoriously bad character; and on conviction of the accused, when the value of the property stolen shall not exceed five Rupees, *to pass sentence of imprisonment not exceeding 10 days with labor, but not to inflict stripes.*

Second.—Whenever a head of district Police investigating under the authority vested in him by this Section, shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the Magistrate for his final orders; *and shall state precisely, in his report, the description and extent of punishment, which in his opinion, is proper to be inflicted in that case,* and the Magistrate shall, at his discretion, either issue his orders in writing to the head of district Police to inflict such punishment as the Magistrate may deem sufficient, *recording his reasons, if it is at variance, in any respect, with the opinion of the head of district Police,* or he shall order the head of district Police to forward the parties and witnesses to him for further investigation.

Third.—Provided always, that if, at the expiration of thirty days from the date and day of despatch of any reference from a head of district Police to a Magistrate, under the provisions of the foregoing

Sec. IV. Cl. 1.—Punishments for several distinct petty offences may not be made cumulative:—nor may thefts *exceeding* five Rupees be punished by the Police after reference.—C. O 28th Oct. 1823.

Modified as in italics by Cl. I, Sec. V. Reg. XIII. of 1832.

Cl. 2. On such reference, Magistrate may direct head of Police to inflict corporal punishment, *F. U. 16th July 1835.—V. M. 96, p. 100.*

Sec. IV. Cls. 2 and 3.—The provisions of these Clauses are declared applicable to all petty offences cognizable by heads of district Police, as well as to petty thefts by Sec. I. Act XXXIII. of 1837, which also modifies Cl. 2, as shown by the italics.

Clause, no answer or orders of the Magistrate shall have been received by the head of district Police, then the head of district Police shall release the offenders, and the confinement which they have so had, shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

Fourth.—Heads of district Police shall report to the Magistrates, in the mode prescribed by Clause 2nd, Section XXXIII. Regulation XI. of 1816, all punishments which they may inflict under the provisions of Clause 1st of this Section.

V. *First.*—The power granted to the Tahsildars, or other heads of district Police by Section XXXIII. Regulation XI. of 1816, of fining persons duly convicted before them of offences of a trivial nature, is hereby extended to the imposition of a fine not exceeding three Rupees; *commutable to imprisonment not exceeding three days without labor.*

Second.—In cases of injury to any complainant, when the fine may have been levied, it shall be lawful for the Head of district Police to award the whole or any portion of such fine to the party aggrieved, by way of satisfaction for such injury, as he may deem equitable; the remainder of such fine, if any, to be carried to the account of Government.

Third.—Head officers of district Police shall make immediate report to the Magistrates of all cases in which they shall exercise the power of fining under this Section.

VI. *First.*—The powers granted to heads of villages, under Clause 1st, Section X. Regulation XI. of 1816, to punish trivial offences, are hereby extended, under the rules and limitations therein specified, to the punishment of petty thefts not attended with aggravating circumstances, nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one Rupee.

Second.—Heads of villages shall report to the head Police officer of the district, all cases in which they shall have exercised the power of punishment granted to them by Clause 1st of this Section.

IX. Magistrates and their assistants shall be at liberty in the examination of complaints for petty offences, and of complaints for petty thefts, to exercise their discretion whether to administer *affirmations* to the prosecutors and witnesses, or to examine persons without their being so *affirmed*.

X. Exemption from the necessity of recording depositions is hereby granted to Tahsildars and other head Police officers of districts in the examination of cases on which it is competent to them to pass decision.

Sec. IX. Modified as in italics by Act V. of 1840.

Sec. X. "*Exemption*."—In original "*same exemption*" referring to an exemption granted by Sec. VIII.—Since rescinded by Sec. III. Reg. VIII. of 1832—to Magistrates, from the necessity of taking down in writing, or recording, examinations taken by them, in investigation of complaints preferred before them under Sections XXXII. and XXXIII. Regulation IX. of 1816; but *this* Section being unrepealed, the law in the case of "Heads of Police" remains unaltered.

REGULATION II. OF 1822.

A Regulation to provide for the more effectual administration of Criminal Justice in certain cases, and to alter certain provisions of the Regulations now in force.

II. *First.*—Whenever a prisoner who may confess before the Criminal Judge the offence with which he is charged, or may confirm a former confession thereof, shall require witnesses to attend on his behalf before the Session Court, it shall be discretionary with the Criminal Judge to cause the attendance of any such witnesses, or not, according as it may or may not appear, from the nature of the case, that it admits of palliatory evidence.

Second.—In all other cases, when a prisoner may desire the attendance of more than two witnesses on his behalf, the Criminal Judge is hereby authorised to question the prisoner as to the facts which he wishes to establish by their testimony. Whenever it may appear that the testimony required is irrelevant to the prisoner's defence, the Criminal Judge shall not comply with the requisition of the prisoner; and when several distinct facts are required to be established, which may be material to the defence, the Criminal Judge shall have authority, if he see proper, to summon only two witnesses to each point.

Third.—The Criminal Judge shall record on his proceedings the grounds on which he may exercise the discretion, vested in him by this regulation, of refusing to summon a witness or witnesses on behalf of a prisoner to appear before the Court of Session. * * * *

Sec. II. The provisions of this Section were intended to apply to the old Zillah and Circuit Courts. They have in great measure been virtually abrogated by Act VII. of 1843—but not being specifically repealed, are here inserted—and may serve as a useful guide to Criminal Courts generally, as to the “discretion” to be used in the matter to which they refer.

III. *First*.—It shall be competent to the Magistrate, and to the heads of district Police acting under his orders, to apprehend, when it may seem proper, any vagrant, or suspicious person or persons without ostensible means of honest livelihood, or person of notoriously bad character; and the Magistrate, at his discretion, shall either take security for the appearance of such person, or issue his warrant for such person, to be received and detained in the custody of the Criminal Judge.

Second.—It shall however be competent to the Session Judge, after making such enquiry as he may deem satisfactory, to order the release of any person so confined, either with or without security for his future appearance and good behaviour.

Third.—Persons so confined shall also be liable to be released at the discretion of the Magistrate by whom they were committed.

IV. *First*.—In all cases brought before a Criminal Judge, where adequate proof for conviction of a specific offence may not be adduced against a prisoner, but he shall appear to be under strong suspicion of any act of criminality, it shall be competent to the Criminal Judge, to direct that such prisoner be detained in custody, until he shall give sufficient security for his future good behaviour, and appearance when required.

Second.—Whenever a Criminal Judge may exercise the authority vested in him by the foregoing Clause, he shall submit a report to the Session Court, specifying the names of persons confined by him on a requisition of security which they may have been unable to furnish, the circumstances of each case, with the proceedings held thereon and the amount of security required.

Third.—The Session Judge, after inspecting the proceedings and making any further enquiry deemed necessary, shall pass such order as may appear just and proper, either for the release of the prisoner

Sec. III. Cl. 1.—Extended to requisitions of security for “good behaviour,” and further provisions made in the matter by Secs. VI. and VIII. Reg. VI. of 1827.

Cl. 2.—To make such revision only on petition of prisoner.—Cl. 2, Sec. VIII. Reg. VI. of 1824.

Sec. IV. Cl. 1.—For further directions as to procedure in such cases, see Secs. VII. and VIII. Reg. VI. of 1827.

Sec. IV. Cl. 3.—Such revision only to be made on the petition of the prisoner.—Cl. 2, Sec. VIII. Reg. VI. of 1827.

on his Muchilka, or for reducing the amount of security required, (if this appear excessive) or for the further detention of the prisoner.

V. *First.*—The provisions contained in Regulation VI. of 1811, for the punishment of persons convicted of forgery, or procuring forgery, are hereby declared subject to the following modifications.

Second.—The Session Judge before whom a prisoner may be convicted of having forged, or procured to be forged, any counterfeit coin in imitation of any of the gold, silver, or copper coins of the British Governments in India, or of any coin usually received as money in the British possessions in India, shall, provided he concur with the law officer in the conviction of the prisoner sentence him to receive 150 lashes with a cat-of-nine-tails, and to be imprisoned in banishment from the district, for the period of fourteen years; unless the Session Judge on consideration of all the circumstances of the case, shall be of opinion that any part of the prescribed punishment is too severe, in which case he shall be authorized to mitigate the sentence to imprisonment, for any period not less than seven years.

Third.—If in any instance the Session Judge shall be of opinion that a further mitigation or remission of punishment is necessary, he shall, provided he concur in the conviction of the prisoner, pass sentence according to the preceding Clause, and refer the trial, with his sentiments at large, for the final sentence of the Court of Foujdaree Udalut, who shall have authority to mitigate the sentence at their discretion.

VI. *First.*—Any person who shall be convicted before a Session Court, or the Court of Foujdaree Udalut, of paying or tendering in payment, counterfeit coin, knowing the same to be counterfeit, shall be sentenced to imprisonment for such period, not exceeding seven years, as the Session Judge, or the Court of Foujdaree Udalut may deem adequate to the circumstances of the case. In every instance of a repetition of the offence after a previous conviction and punishment, the Session Judge shall further, at his discretion, sentence the offender to receive corporal punishment not exceeding 150 lashes with a cat-of-nine tails.

Second.—The provisions in the preceding Clause are declared applicable to persons convicted of clipping, filing, drilling, defacing, or debasing, the gold or silver coin of the British Government in India,

or any coin usually received as money within the British possessions in India.

VII. If any person subject to the jurisdiction of a Zillah Magistrate, shall be convicted of having in his or her possession any counterfeit coin, and shall not show good and sufficient cause for having such counterfeit coin in his or her possession, the person so convicted shall be sentenced by the Magistrate to pay a fine equal to four times the nominal value of such counterfeit coin in his or her possession; one moiety of which fine shall, on receipt of it, be given to any informer or informers who may have given information of the offence, and established the truth of it. In the event of such fine not being paid, the person convicted shall be confined in the Zillah Gaol for such period as the Magistrate may direct, not exceeding six months.

VIII. The restriction contained in Section XXIX. Regulation IX. of 1816, against prosecutions of witnesses and parties in the Civil Courts for perjury and subornation of perjury, unless the officers presiding in those Courts shall be of opinion that there are grounds for such prosecutions, is hereby extended to all charges of perjury or for subornation of perjury, against witnesses and prosecutors in the Criminal Courts.

IX. In modification of the provisions contained in Section XX. Regulation XIII. of 1816, it is hereby enacted, that petitions on unstamped paper shall be received by the Criminal Judges, the Session Judges, and the Court of Foujdaree Udalt.

Sec. VII. The making or possessing implements for coining is punishable under Sec. IV. Reg. VI. of 1827.

Sec. VIII. Extended to Collectors and Principal Sudder Amcens, by Cl. 3, Sec. III. Reg. VIII. of 1829.

REGULATION VI. OF 1822.

A Regulation for extending the powers of the Criminal Judges and of the Session Courts, in the trial of persons charged with breaking into houses and other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal ; or charged with theft, or with buying or receiving stolen property knowing the same to have been stolen ; or charged with escape from jail or other place of confinement.

II. *First.*—The Criminal Judges shall be guided by the following rules, whenever individuals may be apprehended and brought before them on a charge of having committed the offence of breaking into, or attempting to break into a dwelling house, tent, or other place of habitation, by night or by day, with an intent to steal ; (but without open violence such as to constitute the crime of robbery by open violence as defined in Clause first, Section III. Regulation XV. of 1803 ;) or with the offence of breaking into, or attempting to break into any warehouse, storehouse, or other building or place used for the custody or preservation of property, either by night or by day, with an intent to steal ; (but without open violence ;) or of being present, aiding and abetting in the commission of any of the offences above specified ; or although not present, of having procured or caused the perpetration of any of those offences by hire, counsel or command ; or of having in any manner confederated with the actual perpetrators of them, in pursuance of a preconcerted plan.

Second.—If the perpetration of any of the offences enumerated in

Sec. II. Cl. 2.—*Heinous Crime.*—Receiving in a case punishable by Criminal Court under Clause 4, Section IV. of this Regulation, is not one.—*F. U.* 18th May 1855, *V. M.* p. 54.

“ *Before convicted.* ”—Previous conviction must form a count in the indictment, and evidence of identity be adduced.—*F. U.* 2nd Oct. 1850 and 8th Feb. 1851.

the preceding Clause, (not amounting to the crime of robbery by open violence) shall be accompanied with wounding, burning, corporal injury, or other aggravating act of personal violence; or if the prisoners, or any of the prisoners, concerned in the offences described in the preceding Clause, shall appear to have been before convicted of burglary, robbery, or other heinous crime; or if the prisoners, or any of them, shall appear to be persons of notoriously bad character; or shall be charged with having committed the offence while employed in the office of watchmen, guards, or Police officers; or if property be stolen of which the value or amount shall exceed the sum of one hundred Rupees; in all such cases it shall be the duty of the Criminal Judge to commit the whole of the prisoners, who may appear, from the evidence adduced, to have been concerned in the offence, to take their trial before the Session Court.

Third.—In cases of conviction before the Session Court, of individuals charged with any of the offences above specified, if the act be accompanied with an attempt to commit murder, whether by wounding, burning, strangling, drowning, throwing into a well, or by any other means, or be accompanied with wounding, burning or corporal injury to any person or persons, in such degree as to endanger life, the Session Judge shall refer the trial to the Court of Foujdaree Udalut; and the offender or offenders, who may be convicted to the satisfaction of that Court, of having been concerned as principals or accomplices in the crime, shall *on conviction be sentenced to corporal punishment not exceeding 195 lashes with a cat-of-nine tails, and to imprisonment and transportation for life.*—If the Session Judge be of opinion that there are grounds for a mitigation of the prescribed punishment, he shall state the same for the consideration of the Foujdaree Udalut.

Fourth.—In cases of conviction before the Session Courts, of any offences specified in Clause second of this Section, wherein the house-breaking and theft, or attempt to commit the same, may not have been accompanied with an attempt to commit murder, nor with wounding, burning, or other corporal injury, in such degree as to endanger life, but may have been attended with wounding or other corporal injury in a less degree, the Session Judge, provided he concur in the conviction of the offender, shall, without reference to the Foujdaree Uda-

lut, adjudge him to suffer such punishment as may appear adequate to the offence, not exceeding 195 lashes with a cat-of-nine tails, and imprisonment for fourteen years in banishment from the district where the prisoner may have resided.

Fifth.—Nothing in the above Clause shall be construed to empower the Session Courts, to pass and order execution of a sentence of conviction and punishment, without reference to the Foujdaree Udalut, in any case of robbery by open violence, as defined in Clause first, Section III. Regulation XV. of 1803; or to authorize an enhancement of the penalties declared by the Regulation in force for burglary or theft, when not accompanied with wounding or other corporal injury, nor with an attempt to commit murder by strangling, or other means, as described in Clause third of this Section.

Sixth.—If from the investigation held by the Criminal Judge in the cases described in Clause first of this Section, there shall appear reason to believe, that any prisoner apprehended and brought before him, has been guilty of the offence charged against him, but that such offence has not been attended with any of the circumstances of aggravation specified in Clause second of the Section; the Criminal Judge shall, in addition to the evidence which may be adduced on the part of the prosecution, take the defence of the prisoner, and the evidence of the witnesses who may be designated by the prisoner in support of his or her defence; and after a full and deliberate investigation, shall proceed, without reference to the Session Court, to pass sentence of acquittal or conviction. If the prisoner be convicted, the Criminal Judge is hereby empowered to sentence him to imprisonment, with hard labour, for a period not exceeding two years, and to corporal punishment not exceeding 150 lashes with the cat-of-nine tails.

III. *First.*—Under the existing Regulations, the Criminal Judges are empowered to sentence prisoners convicted before them of theft, to imprisonment for a period not exceeding six months, with corporal punishment not exceeding 150 lashes with the cat-of-nine tails, and in cases demanding a more severe punishment, they are required to commit the prisoners for trial before the Session Court. The following rules are now enacted for extending the powers of the Criminal

Sec. II. Cl. 6.—A sentence of imprisonment passed under this Clause, should at least exceed six months, either with or without lashes—the object of it being to provide for offences requiring a longer period of confinement.—*See C. O. No. 139, 13th May 1841.*

Judges in the punishment of prisoners convicted of theft, and for defining the cases which are to be cognizable respectively by the Criminal Judges, and by the Session Courts.

Second.—In all cases of theft, whether in a house, warehouse or other place, or from the person of another—not coming within the provisions of the Regulations in force for the punishment of robbery by open violence, or the provisions of Clause first, Section II. of this Regulation—if the theft, or the attempt to commit the same, shall have been accompanied with an attempt to commit murder, or with wounding, burning, severe corporal injury, or other aggravating act of personal violence, *or the property stolen shall exceed 300 Rupees in value*, it shall be the duty of the Criminal Judge to commit the whole of the prisoners who may appear, from the evidence adduced, to have been concerned, either as principals or accomplices, in the offence, to take their trial before the Session Court.—The Criminal Judge shall also commit for trial before the Session Court, any prisoners charged with theft—although not attended with the aggravating circumstances abovementioned—who from their notoriously bad character, or from their having been before convicted of a heinous offence, or from any other peculiar circumstances of the case, may appear to him deserving of a severer punishment than the Criminal Judge is authorized to inflict under the following Clauses of this Section.—Such persons, if convicted on trial before the Session Court, shall be sentenced to *corporal punishment not exceeding 195 lashes with a cat-of-nine tails, and to imprisonment and transportation for life.*

Third.—With exception to the cases mentioned in the preceding clause, the Criminal Judges shall hear and determine, without refer-

Sec. III. Cl. 2.—“300 Rupees in value.”—So modified by Sec. IX. Reg. I. of 1825.

In all cases of theft or robbery, wherein taken or plundered property may be found in possession of prisoners, a count must be inserted in the indictment charging them with the offence of knowingly receiving or possessing it, as the case may be.—*F. U. 22nd May 1851.*

And such count must be added even when prisoners are taken in the act of robbing with property on them.—*F. U. 7th July 1851.*

Sec. III. Cl. 2.—*The Criminal Judge shall also commit, &c*—See *C. O. F. U. 19th June 1823*, ruling the sentence thus commencing, and ending with “*Clauses of this Section*” to be “*parenthetical.*” In support of which view may be added, what appears to have escaped notice, that it is specially so marked in the original Regulation. *Heinous crime.*—Not applicable to “*thefts punishable under Sec. VII. Reg. X. of 1816* ;” such having been declared “*notheinous*” in the preamble to Reg. IV. of 1811.

This Clause was modified as shown in the italics by Cl. 2, Sec. II. Reg. I. of 1825.

ence to the Session Courts, all other cases of theft which may be brought before them ; and after having duly considered the evidence which may be adduced on the part of the prosecution, and of the prisoner, shall pass sentence of acquittal or conviction.

Fourth.—In cases of theft cognizable by the Criminal Judges under the foregoing Clause, if the amount or value of the property stolen shall exceed fifty Rupees ; or if the persons committing the theft, shall have been before convicted of theft, burglary, robbery, or other heinous offence ; or if the prisoner shall have committed the offence while employed in the office of watchman, guard, or police officer ; or be a servant of the person from whom the property may have been stolen, or a servant employed in the house in which the theft may have been committed ; as well as in all cases of cattle-stealing ; the Criminal Judge shall be empowered, on proof of the guilt of the prisoner, to sentence him to imprisonment with hard labor for such period as may appear proper, not exceeding two years, and to corporal punishment not exceeding 150 lashes with a cat-of-nine tails.

Fifth.—In other cases of theft, not included in the foregoing provisions, the Criminal Judges shall pass sentence on the prisoners under the powers vested in them by Section VII. Regulation X. of 1816.

IV. *First.*—The Criminal Judges shall be guided by the following rules in the investigation of charges preferred against individuals for the offence of receiving or buying stolen goods, cattle, jewels, money, or effects of whatever description, knowing the same to have been stolen.

Second.—All prisoners who may appear to the Criminal Judge, from the investigation held by him, to be guilty of having purchased or received, plundered or stolen property, of any description, knowing at the time of purchasing or receiving the same, that such property had been obtained in the perpetration of robbery by open violence, or of theft accompanied with any of the aggravating circumstances described in Clause second, Section II. or Clause second,

Sec. IV. Cl. 1.—*Receiving or buying.*—As a general rule, it has been laid down, that "Receiving" is punishable by the authority by whom the "theft" itself is punishable, see C. O. 26th Nov. 1822.

Sec. IV. Cl. 2.—Applicable to "Receivers of property stolen by Thuggee," see C. O. F. U. No. 128, 30th Nov. 1840.

Section III. of this Regulation, shall be committed by the Criminal Judge to take their trial before the Session Court—and such persons if convicted thereof, shall be sentenced by the Session Judge, according to the circumstances of the case, to such period of imprisonment as may appear proper, in no instance however, exceeding fourteen years, and to corporal punishment not exceeding 195 lashes with the cat-of-nine tails.

Third.—The Criminal Judge shall also commit for trial before the Session Court, any prisoner charged with the offence of buying or receiving stolen property, of whatever description, knowing at the time, that such property had been stolen, although the property may not have been obtained in the perpetration of theft accompanied by any of the aggravating circumstances described in Clause second, Section II. and Clause second, Section III. of this Regulation, if the prisoner shall have been before convicted of the offence of buying or receiving stolen property, or of robbery, burglary, theft, or other heinous crime ; or shall appear to be an habitual and professional receiver of stolen property ; or a person of notoriously bad character ; and such person shall, upon being duly convicted before the Session Court, be liable to such punishment, within the limitations prescribed in the preceding Clause of this Section, as the Session Court may judge proper to direct, on a consideration of all the circumstances of the case.

Fourth.—With exception to the cases abovementioned, the Criminal Judges shall hear and determine, without reference to the Session Courts, all other cases in which individuals may be charged with the offence of buying or receiving stolen property, of whatever description, knowing it at the time to have been stolen ; or with the offence of having in their possession property obtained by theft or robbery, and knowing at a period of time subsequently to its first coming into their possession, that such property had been so obtained, notwithstanding which, they may have kept the stolen property in their possession, without restoring it to the owner, or giving information to the local Police officer or Magistrate ; in such cases the Criminal Judge, after having duly considered the evidence in support of the prosecution, the defence of the prisoners, and the evidence of the witnesses designated by the prisoners, shall proceed to pass sentence of conviction or acquittal—if the prisoners be con-

victed, the Criminal Judge is hereby empowered to sentence them to imprisonment with hard labor for a period not exceeding, in any case, two years, and to corporal punishment not exceeding 150 lashes with the cat-of-nine tails.

Fifth.—It is hereby explained, that persons charged with the offences specified in the preceding Clauses of this Section, may be brought to trial, and sentenced to punishment, although the actual perpetrators of the theft or robbery may not have been convicted ; provided however, that the fact of the theft or robbery having been committed, be established, and it be proved, that the purchaser or receiver knew that the property in question had been obtained by theft or robbery.

V. *Second.*—The cases of convicts or of prisoners ordered to be confined till they give security for good behaviour, who may effect their escape, while under sentence or order of imprisonment, from a jail or other place of confinement, or from the custody of their guards, shall be cognizable by the Criminal Judge ; and upon conviction, the Criminal Judge shall be empowered to sentence the offenders to corporal punishment, not exceeding 150 lashes with a cat-of-nine tails, and (if sentenced to a limited period of imprisonment,) to suffer such further period of imprisonment beyond the unexpired term of their original sentence, as he may judge proper ; provided however, that such additional imprisonment shall in no case exceed the period of two years.—If the prisoner be in confinement under an order to find security for good behaviour, he may be sentenced to imprisonment for a specific term, not exceeding two years.

Third.—The cases of prisoners apprehended and detained in custody, under examination on charges of a criminal nature, but not admitted to bail, who may effect their escape from a jail or other place of confinement, or from the custody of their guards, shall also be cognizable by the Criminal Judges ; and such prisoners, being duly convicted of the offence in question, shall be liable to a sentence of imprisonment in no case exceeding six months.

Sec. V. Cl. 2.—*Convicts.*—In regard to Convicts under sentence of imprisonment or transportation for life, see *Act XVIII. of 1845.*

Sec. V. Cl. 3.—An “ attempt to escape ” is not punishable under this Clause.—*F. U. 21st July 1837, C. R. No. 934, p. 433.*

Fourth.—The rules contained in the two preceding Clauses shall not however be considered applicable to the cases of convicts or other prisoners, who, in effecting their escape, or in attempting to effect their escape, shall be guilty of such a degree of violence towards their guards, or other individuals, as may in its consequences involve the wounding, or severe personal injury, of any person or persons.—In all cases of that nature, it shall be the duty of the Criminal Judge to commit the offender to take his trial before the Session Court.

VI. The powers vested in the Session Courts and in the Foujdaree Udalt, with regard to the revision of sentences and orders passed by the Criminal Judges, shall be considered applicable to all sentences and orders passed by the Criminal Judges under this Regulation.

REGULATION IX. OF 1822.

A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs; for prescribing the Rules to be observed in such investigations, and in the recovery of money embezzled or corruptly received by public servants and others amenable to the Collector's Jurisdiction; for providing for the admission and trial of appeals from the Summary decisions of Collectors in such cases; and for declaring the powers of Criminal Judges and Session Courts in the punishment of the offences specified in this Regulation.

II. *First.*—Collectors of the land Revenue are hereby authorized to take primary cognizance of all cases, in which persons of any of the several descriptions hereinafter specified, shall be accused, or suspected of having wilfully committed, or allowed to be committed, any of the acts of malversation particularized in Clause 2nd of this Section; and on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this Regulation, the said Collectors are authorized to adjudge.

Second.—The several classes of the offences cognizable by Collectors under this Regulation, are declared to be as follows, viz.

1st. Exacting or corruptly receiving, either directly or through the means or agency of any other person, any money or other valu-

Reg. IX. of 1822.—“*Empowering Collectors.*”—By Sec. III. Reg. VII. of 1828, Subordinate and Assistant Collectors in charge of particular districts, have authority *ex-officio* to exercise the powers given to Collectors by this and other Regulations—and the same may be conferred by the Collector on an Assistant not in special charge, to be exercised under his superintendence—Section IV. of the same Regulation provides for the disposal of “petty cases under Reg. IX. of 1822”—by Sheristadars or Tahsildars, and Sec. VI. prescribes that appeals from decisions passed under Secs. V. or VI. Reg. IX. of 1822, shall lie to the Board of Revenue.

able consideration, for doing, or procuring to be done, any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence of obtaining or securing some undue gain, benefit or advantage, to the giver of such money or other valuable consideration.

2nd. Levying extra and unauthorized cesses, or extra collections of any kind, not sanctioned by the Regulations, nor by the orders of Government, and intended for the private and personal use and profit of the persons levying, or causing the same to be levied.

3rd. Embezzling or fraudulently misappropriating the public money or public property.

4th. Making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money or property in any of the departments under the Collector's superintendence, or concerning the extent, value, classification or assessment of land.

5th. Knowingly and wilfully falsifying, destroying, or concealing public accounts or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money, or property.

Third.—The classes or descriptions of persons in regard to whom the Collectors shall have authority to exercise the powers of summary investigations, decision and punishments, granted to them by this Regulation, are declared to be as follows, viz.

1st. All the Native servants of the Collector's public establishments.

2nd. All head inhabitants, Curnums, and their Gomastahs, or persons doing the duty for them, and all other village officers and servants within their respective Collectorates.

3rd. All persons not on the public establishment, whether being in the private service of a Collector, Sub-Collector, or Assistant to a Collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority, or on the behalf of Revenue servants or village officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or

receive money as public Revenue, or as for Revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration should have been taken.

III. First.—Collectors shall have power to summon before them as witnesses, all persons whose evidence may appear necessary to the due investigation of the cases referred to in this Regulation, as well for as against the accused or suspected persons; and to require the production of documentary evidence. The summonses to be issued by Collectors for this purpose, shall bear their official seal and signature, and shall specify the time and place of the witnesses attendance; and if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be, to bring such documents along with them.

Second.—If any person after being duly summoned, shall not attend at the time and place appointed, or having attended and taken the oath required shall refuse to give evidence, the Collector, if it be proved to his satisfaction that the evidence of the person not attending, or refusing to give evidence, is material to the case, shall communicate the same by means of the Government pleader, to the Judge of the Zillah to the jurisdiction of which such person may be amenable; and the Judge is hereby directed and required to proceed against such person not attending or refusing to give evidence, in the same manner as if he had not attended, or had refused to give evidence in the Zillah Court.

Third.—If any witness whose evidence is required by a Collector shall reside out of the jurisdiction of the Zillah to which the Collector is amenable, the Collector shall transmit written interrogatories to the Judge of the Zillah in whose jurisdiction the witness may reside, who shall procure the written answers of the witness to such interrogatories, in the manner prescribed by Act VII. of 1841, and shall return the same to the Collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule whether on behalf of the Government, or of the accused, the opposite party shall have the right of transmitting cross interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

IV. The investigations which Collectors are authorized to make under this Regulation shall be summary—witnesses shall be examined on solemn affirmation. All documents produced in evidence shall be endorsed by the Collector with his signature or initials, and marked with the date of their production; a summary of the defence shall be recorded and the decision of the Collector, with a brief statement of the grounds, on which it is formed, shall be entered on the proceedings.

V. *First.*—When persons of any of the descriptions mentioned in Clause 3rd, Section II. of this Regulation, shall be convicted before a Collector, on an inquiry conducted under this Regulation, of any of the offences of the 1st, 2nd, or 3rd Class specified in Clause 2nd of that Section, the Collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled or misappropriated.

Second.—After a judgment has been passed by a Collector for the payment of money under the foregoing Clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first in the Collector's Kutcherry, and afterwards, if necessary, in the Zillah Jail as hereinafter provided.

Third.—The judgments of Collectors for the recovery of money under the preceding Clause shall be executed in the same manner as Decrees of the Courts of Udalt by a warrant under the official seal and signature of the Collector; which shall specify the name of the person, against whom the judgment has passed, the date of the judgment on the Collector's proceedings, and the amount to be levied. In the execution of this warrant, the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the Collector; or if not moveable, a full report thereof

Sec. IV.—Such reports of judgments passed under this Section, as the Board of Revenue may direct, shall be transmitted to them: and the Board when they see fit, may order that such judgment be not carried into execution, and pass such further order on the case as to them may seem equitable and just.—*Cl. 2, Sec. II. Reg. III. of 1823.*

shall be made to the Collector, who will hold a summary inquiry on the claim preferred, or refer such inquiry to a Panchayet. If the property be proved to belong *bona fide* to the defaulter, a particular account of its nature and value shall be entered on the Collector's proceedings, after which he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

Fourth.—When any of the beforementioned persons shall be convicted of any of the offences of the 4th and 5th Class specified in Clause 2nd, Section II. of this Regulation, the Collector shall impose such fine, not exceeding 500 Rupees, as may appear reasonable, and in default of payment of such fine, he shall further sentence the offender to imprisonment for a period not exceeding 12 months, or until the said fine shall have been paid.

VI. In cases where no examination of witnesses may be necessary, as where money actually delivered in charge to a public servant, has been embezzled or is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the Kutcherry, Collectors shall make in writing a demand of the specific amount due by such public servant, and on his refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and if necessary, by imprisonment of the defaulter's person in the same manner as for the recovery of the arrears of Revenue.

VII. Whenever a Collector shall be about to institute an inquiry under this Regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal or collusively transfer his property for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the Collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to provide for the fulfilment of the judgment that may be eventually passed; and in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry. The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person wherever, or in whose possession soever, it may be found in the event of property seized

under this Section being claimed by any other person, the Collector shall proceed as directed in like cases in Clause 3d, Section V. of this Regulation.

VIII. In all cases where an accused or suspected person has refused or neglected to deposit security according to the Collector's requisition, as provided in Section VII. and in all cases where a judgment has passed under the provisions of Clause 1st, Section V. of this Regulation ; as well as where a defaulter has failed to satisfy the public demand against him made under the provisions of Section VI. of this Regulation ; it shall be competent to a Collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days ; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted before the Criminal Judge, (who is hereby empowered to take cognizance of such cases,) of having fraudulently concealed or collusively received such property, shall be sentenced by him to pay a fine not exceeding three times the amount of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid ; the Criminal Judge shall levy the amount of the fine by the usual process, and in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the Zillah Jail ; provided however, that the period of confinement under this Section, shall in no case exceed twelve calendar months.

IX. If information on *solemn affirmation* shall be given before a Collector, that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own seal and signature addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts ; search warrants thus issued shall be executed between sun-rise and sun-set only, and where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated ; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants, shall be made out in duplicate on the

spot, both copies shall be signed by the officer executing the warrant and by the inhabitants or witnesses present, one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the Collector.—Provided however, that nothing contained in these rules shall be construed to authorize any but females to enter the zenana or apartments of the women, in houses belonging to those classes whose women do not ordinarily appear in public.

X. Whenever it may be necessary to sell property in satisfaction of an order or judgment of the Collector under the provisions of this Regulation, the sale shall be conducted by the Tahsildar or other public servant to whom the Collector may delegate that duty, and the rules of Sections XXI., XXII., XXV., XXVI. and XXVII. of Regulation XXVIII. of 1802, as far as they relate to the notification, publicity and fairness of such sales, shall be adhered to by the officer conducting the sale, who, if he shall neglect to observe those rules as far as they apply, and shall knowingly permit any unfair dealing either in the appraisement or sale of such property, shall be liable to be fined by the Collector in such amount as may suffice to make good the loss sustained in consequence of the unfair practices which he may have so permitted, and in default of payment of such fine, shall be committed to the Zillah Jail by the Collector for a period not exceeding one year, or until such fine shall have been paid.

XII. A discretionary authority shall be vested in Collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received, the whole or such part of the sum recovered under the provisions of this Regulation as may appear proper on consideration of the circumstances of the case; provided moreover, that such persons shall be entitled in all cases to receive back, whatever they may have so given to a public servant of Government, if they shall inform the Collector, Sub-Collector or Assistant, of such exaction or undue receipt of money, within two months after its payment or delivery by the said informants.

XIII. *First.*—Collectors are authorized to keep under restraint any persons against whom they may have instituted an inquiry under the provisions of this Regulation, either by placing peons over the dwelling house of any such persons, to prevent their escape, or, if

necessary, by confinement in the Cutcherry; and if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

Second.—In the event of no property of a person, against whom an order or judgment has been passed under this Regulation, being forthcoming, or not sufficient to pay the amount due by him, the Collector shall forward the defaulter or offender to the Zillah Court, and shall at the same time furnish the Government vakeel of the said Court with instructions to present a motion to the Judge for his confinement until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the Collector shall again move the Court for his release. The Judge shall receive such motion whether in or out of Court, and shall order the confinement of the party accordingly, and the Judge shall not discharge him from confinement, except on his paying the full amount mentioned in the Collectors motion, or on application from the Collector.

XV. *Second.*—A commission appointed under this Regulation shall be vested generally with the same powers as Criminal Courts under the Regulations in force, so far as such powers are necessary to the full and efficient discharge of the duties to be executed. The proceedings of the commission are to be governed by the rules and maxims of justice, and in all points not expressly provided for in this Regulation, the provisions contained in the general Regulations are to be observed as far as they may be consistent and applicable.

Third.—The commission shall call for and examine the proceedings and evidence recorded by the Collector on the summary inquiry which preceded, and on a full consideration of the whole of the evidence, shall decide whether the Judgment or order passed by the Collector and appealed from, was just and equitable, or if otherwise, in what particulars it was erroneous; and shall order the repayment,

Sec. XIII. Cl. 2.—“*Motion to the Judge.*”—That is to the Subordinate Judge in charge of the Jail, or to the Session Judge at stations where that officer is in charge.

Sec. XV. Cl. 1 of this Section, which was rescinded by Section V. Reg. VII. of 1828, Provided for the constitution of a “COMMISSION” for the revision of a Collector’s proceedings under this Regulation. That duty has been otherwise provided for by Sec. VI. Reg. VII. of 1828, which however, in its 3rd Clause provides for the appointment of a *Commission*, which in such cases is to be guided, by the following Clauses of this Section.

with reasonable interest, of any sum which had been adjudged by the Collector to be due and payable, but which the commission shall find not to have been so due; and if any property had been sold in satisfaction of such order or judgment of the Collector, the commission, in revising the order or judgment, shall determine the amount of compensation to be paid on account of such property so sold, and shall further have authority to adjudge such reasonable costs and charges as may appear sufficient to compensate the complainant for any loss or injury sustained, or for unjust detention of the complainant, or for actual charges or expenses incurred.

Fourth.—When the proceedings shall have been closed, or as soon afterwards as circumstances will admit, the commission shall forward the whole of the proceedings and evidence, with the final judgment on the case, to the Governor in Council.

Fifth.—The decisions of commissions under this Regulation shall be final; but it shall be with the Governor in Council to determine, in the case of compensation being awarded under the foregoing Clause, whether the amount shall be paid from the public treasury, or whether (as in cases where the proceedings of the Collector on the primary enquiry shall appear to have been unfair and unjustifiable or where he may appear to have been culpably negligent in regard to the mode of disposing of the complainant's property,) the whole or any part of such compensation shall be made good by the Collector who conducted the primary enquiry, and the proceedings, in execution of the summary judgment.

Sixth.—If the petition of appeal from a summary judgment of a Collector passed under this Regulation be presented before the property which may have been attached has been sold, such property, or any part that may still be unsold, shall be held in attachment pending the appeal; and where the property attached may be sufficient for the security of the amount adjudged by the Collector on the primary enquiry, or where the party appearing may give good and sufficient security for the ultimate fulfilment of the Collector's judgment, he shall be released from confinement, pending the investigation by the Commission.

Seventh.—If the decree of the Commission confirm the judgment of the Collector, the decree shall be executed in like manner as the decree of a Court of Udalut; and if the amount finally adjudged be

not paid, the Appellant and his sureties, where he may have given the security of others, shall be committed to the zillah jail, by an order of the Commissioner or Commissioners, bearing his or their signature, and specifying the amount to be levied ; and such order shall be a sufficient warrant to the Criminal Judge to receive such persons into the zillah jail, and to keep them there until the amount decreed against them be fully paid ; or until the Collector, under the orders of the Board of Revenue or of Government, apply for their release.

XVII. First.—Criminal Judges are hereby authorized to take cognizance of such cases as Collectors may bring before them, where any of the persons mentioned in Clause 3rd of Section II. Regulation IX. of 1822—may be accused of having committed any of the offences enumerated in Clause 2nd of the same Section ; and on conviction, to sentence such persons to imprisonment, in no case exceeding one year.

Second.—Criminal Judges are likewise authorized to take cognizance of all cases where any person shall be charged with having given a bribe to any public Officer, or servant on the Collector's establishment, or any head inhabitant or other village Officer ; and on conviction, to sentence such person to pay a fine not exceeding twice the amount of the bribe proved to have been paid, and in default of payment, to suffer imprisonment for a period not exceeding one year, or until the fine be paid.

XVIII. First.—In case of an aggravated nature brought before a Criminal Judge under the foregoing section, if he shall be of opinion that the sentence which he is authorized to inflict is not adequate to the punishment of the offence, he shall commit the parties to take their trial before the Session Court.

Second.—The Session Courts are hereby authorized, on the conviction of any persons brought before them of any of the offences enumerated in Clause 2nd of Section II. of this Regulation, to sentence the offenders to imprisonment for a period not less than one year, nor exceeding five years, and with or without hard labour, as in consideration of all the circumstances of the case, may seem proper.

REGULATION I. OF 1824.

A Regulation for extending to the Criminal Courts the rules prescribed in Section VII. Regulation III. of 1802, for procuring the attendance and evidence of witnesses.

II. Such parts of Section VII. Regulation III. of 1802, as prescribed to the Civil Courts, the rules for procuring the attendance and evidence of witnesses, and for administering oaths, or taking declarations equivalent to, and in lieu of, such oaths; and likewise for inflicting punishments on persons who, being duly summoned, refuse to attend, or, when attending, refuse to give evidence, are hereby extended to the cases of witnesses whose attendance and evidence may be required by any zillah Magistrate, or Criminal Judge, or the Session Courts, in any Criminal trials or matters cognizable by them respectively.

Sec. II. The provisions referred to are as follows: "To procure the attendance of witnesses, the Zillah Courts, on the requisition of the Plaintiff or Defendant, or their respective Vakeels, are to issue a summons to the witnesses whom the parties may name—provided they be not Hindoo or Mahomedan women of a rank or quality, which according to the manners and customs of the country, would render it improper to compel them to appear in a Court of Justice—specifying at whose request the summons may have been issued, and requiring them to appear in the Court on a day to be named in the summons—and there to depose concerning the matter in dispute between the parties. If a witness so summoned shall not attend on the day appointed, or attending, shall refuse to give evidence, or subscribe his deposition, the Judge, in the first case, if it shall be proved to his satisfaction, on oath, or solemn affirmation, that the witness was material to the cause, is to issue an order to the Nazir to seize and bring the witness before the Court, and is to impose on such witness not having attended, or refusing to give evidence a fine not exceeding 500 Rupees, and to commit him to close custody until he shall consent to give his evidence, and sign his deposition.

REGULATION I. OF 1825.

A Regulation to rescind Regulation I. of 1822, and to alter certain other provisions of the Regulations in force ; and to provide for the more prompt and effectual administration of Criminal Justice in certain cases.

II. *First.*—Regulation I. of 1822 is hereby rescinded.

Second.—All offenders who, by the provisions of Clause 3rd, Section II. and Clause 2nd, Section III. Regulation VI. of 1822, are declared liable to the punishment, prescribed by Section III. Regulation I. of 1822, shall on conviction, be sentenced to corporal punishment, not exceeding 195 lashes with a cat-of-nine tails, and to imprisonment, and transportation, for life.

Third.—The Court of Foujdaree Udalut shall have authority, at their discretion, to adjudge all persons, sentenced by them to imprisonment, and transportation for life, to corporal punishment of 195 lashes.

Fourth.—The Session Courts shall have authority, at their discretion, to adjudge all persons, sentenced by them to imprisonment, under the provisions of Clause 3rd, Section IV. Regulation XV. of 1803, to receive corporal punishment, not exceeding 195 lashes.

III. *Second.*—If it shall appear to the Session Judge on any trial held under the provisions of Clause 3rd, Section IV. Regulation XV. of 1803, and not referrible to the Foujdaree Udalut, that the stated punishment is, in any particular instance, too severe ; or if, on consideration of the number of prisoners convicted of the same crime, and of any discriminative circumstances with respect to one, or more of them, the example shall appear sufficient for the ends of justice, without extending the full degree of the prescribed punishment to

the whole of the prisoners convicted; the Session Judge shall submit a report of the circumstances of the case and of the sentence proposed by him to be passed on each convicted prisoner, to the Court of Foujdaree Udalut, accompanied by a statement of the grounds of his opinion, that such mitigation of punishment is proper.

Third.—The Court of Foujdaree Udalut shall have authority, on receiving the report, prescribed in Clause 2nd of this Section, to sanction such mitigation of punishment as may appear to them proper; but should they not see sufficient grounds for mitigating the prescribed penalty, they are hereby empowered to direct the Session Judge to issue his warrant for carrying into effect the sentence prescribed by law.

IV. The Session Courts and Foujdaree Udalut are hereby authorized to proceed in the mode prescribed in Clauses 2nd and 3rd, Section III. of this Regulation, in all cases, wherein a Futwah, awarding amputation, may be given by the Law officer of the Session Court; and the sentence prescribed in Section XXI. Regulation VII. of 1802, may be considered by the Session Judge, holding the trial, to be too severe.

V. In modifications of the provisions of Section III. Regulation VI. of 1811, authority is hereby given to the Session Courts, and Foujdaree Udalut, to proceed in the mode prescribed in Clauses 2nd and 3rd, Section III. of this Regulation, in all cases, wherein the Session Judge may consider the punishment, prescribed in Clause 1st, Section III. Regulation VI. of 1811, to be too severe.

VIII. In cases, in which the evidence of a witness on a criminal trial before a Session Court may be declared by the Mahomedan law officer inadmissible or incompetent, on the ground of the witnesses not professing the Mahomedan religion, of his being a police officer, or an officer of Government of any description; or any other ground of exception in the Mahomedan rules of evidence which may appear to the Session Judge unreasonable and insufficient; the Judge shall cause the examination of the witness to be taken, notwithstanding the exception stated by the law officer; and shall require the latter, on completion of the trial, to declare in his futwah, the sentence to which the prisoner would have been liable, if the evidence

Sec. VIII. "*Refer the trial to the F. U.*"—Unless the objections be of the description specified in Cl. 1, Sec. II. Reg. VI. of 1820, which greatly modifies this Section.

of the witness or witnesses objected to, had been admissible under the provisions of the Mahomedan law. In such cases, however, if the conviction of the prisoner depend exclusively, or principally, upon the evidence of the witness or witnesses objected to by the law officer, the Session Judge shall not pass any sentence; but shall refer the trial to the Court of Foujdaree Udalut, to be disposed of by them under the general Regulations.

IX. In amendment of Clause 2nd, Section III. Regulation VI. of 1822, it is hereby declared, that, in cases of theft, where the amount or value of the property stolen shall exceed the sum of three hundred Rupees, the amount shall be deemed a circumstance taking the case out of the jurisdiction of the Criminal Judge, as to passing sentence on the accused; and shall make it necessary for him to commit the accused for trial before the Session Court.

REGULATION III. of 1826.

A Regulation for the more easy conviction of the crime of Perjury in certain cases.

II. *First.*—If a party or witness shall wilfully and deliberately give two contradictory depositions on oath, or under a solemn declaration taken instead of an oath, on a matter or matters of fact material to the issue of a judicial proceeding, such party or witness shall be liable to be committed for trial before the Session Court for wilful and corrupt perjury; provided that the contradiction between the two depositions be direct and positive, and that, upon the whole circumstances of the case, there be strong grounds to presume the corrupt intention of the party or witness.

Second.—For the conviction of a person committed for trial on a charge of perjury under the preceding Clause, no other evidence shall be requisite than clear and satisfactory proof that the party or witness, having been duly sworn, or having made a solemn affirmation, wilfully and deliberately caused the two contradictory depositions to be taken down in writing; and that, before he affixed his signature or mark thereto, their contents were distinctly read over to him.

Third.—Persons convicted under the foregoing Clause, shall be liable to the punishment prescribed for perjury by Section III. Regulation VI. of 1811, subject to the rules established for the remission or mitigation of the punishment in other cases of conviction.

III. A person who under the rules contained in the foregoing Section, has been tried on a charge of perjury, founded on his two contradictory depositions, shall not, whether convicted or acquitted, be afterwards liable to a prosecution for the same offence, charging the perjury in the usual way specifically on either of the said two depositions.

Reg. III. of 1826.—Contradictions in the same deposition cannot be charged as perjury under this Regulation, there must be two depositions.—*F. U.* 8th Jan. 1825.—*V. M.* 7.

REGULATION II. OF 1827.

*A Regulation * * * * * for defining the extent to which the powers of Magistrate shall be exercised by Subordinate Collectors.*

V. *First.*—It is hereby provided that every Subordinate Collector shall have full authority to exercise, within the portion of the district placed under his charge, the powers granted to Collectors as Magistrates by Regulation IX. of 1816, or by any other Regulation.

Second.—It is hereby provided that it shall also be competent to a Subordinate Collector further to exercise the powers above specified, either generally throughout the district, or specially for the conducting of any enquiry at the Hoozoor station, or in any other part of the district, when delegated to him by the Collector as Magistrate.

Third.—The exercise of the powers described in the preceding Clauses of this Section by the Subordinate Collector, shall not supersede or exclude the authority of the Collector as Magistrate throughout the whole district, but shall as far as occasion may require be subordinate thereto.

Fourth.—Subordinate Collectors in the exercise of the powers above specified, shall be designated “Joint Magistrates.”

REGULATION III. OF 1827.

A Regulation for empowering the Governor in Council in certain cases to direct that persons charged with crimes or misdemeanors shall be sent for trial or committal to another Court than that within the jurisdiction of which the offences charged were committed.

II. *First.*—When a Magistrate shall be of opinion, from any particular circumstances connected with the case of a prisoner whom under Clause 2nd, Section XXIV. Regulation IX. of 1816, it is his duty to send to the Criminal Judge of the Zillah, that it is necessary, in furtherance of the ends of justice, that such prisoner should be tried, or committed for trial, in some other Court than that within the jurisdiction of which the offence charged against him was committed, he shall report that opinion, together with the grounds of it, and the circumstances of the case, to the Court of Foujdaree Udalt, and that Court shall submit the same with their opinion, to the Governor in Council.

Second.—When a Criminal Judge shall be of opinion, from any particular circumstances connected with the case of a prisoner forwarded to him by a Tahsildar, under Clause 4th, Section XXVII. Regulation XI. of 1816, that it is necessary, in furtherance of the ends of justice, that such prisoner should be tried, or committed for trial, by some other Court, he shall report that opinion together with the grounds of it, and the circumstances of the case, to the Court of Foujdaree Udalt; and that Court shall submit the same, with their opinion, to the Governor in Council.

III. On the receipt of such report from the Foujdaree Udalt, or

of other sufficient information, it shall be competent to the Governor in Council to order a prisoner to be sent for trial or committal, to whatever Court may appear to him most proper for the furtherance of the ends of justice.

IV. When a prisoner shall be ordered to be sent to any other Court than that within the jurisdiction of which the offence charged was committed, he shall be sent accordingly, together with the prosecutor, witnesses and documents in his case, and with a certified copy of the order of Government; and that order shall be sufficient authority for the Criminal Judge to whom he is therein directed to be sent, and eventually for the Session Court, to proceed, respecting his case, in the same manner as if he had been sent by the Magistrate or a Tahsildar within their own jurisdiction.

REGULATION VI. OF 1827.

A Regulation for explaining the provisions of Clause 1st, Section V. Regulation XV. of 1803, and Clause 4th, Section III. Regulation VI. of 1822 ; for making further provisions against the offence of counterfeiting the coin ; for declaring Magistrates empowered to take recognizances and security for keeping the peace in certain cases ; for enlarging the power granted to Magistrates by Clause 1st, Section III. Regulation II. of 1822 ; for modifying and amending the rules in force relating to the requisition of security for good behaviour ; and for subjecting to compulsory labor, persons unable to find the security required.

II. It is hereby declared in explanation of Clause 1st, Section V. Regulation XV. of 1803, that the reference therein made to the Mahomedan law in cases of theft was not intended, and shall not be considered, to preclude the Session Courts and the Foujdaree Udalt from adjudging corporal punishment, not exceeding 195 lashes with a cat-of-nine tails, in addition to imprisonment for the term of 7 years, whenever such punishment in aggravated cases of theft may appear just and proper.

III. In explanation of Clause 4th, Section III. Regulation VI. of 1822 ; it is hereby declared that nothing contained therein shall be construed to require that persons convicted before the Criminal Judge of any of the offences specified in that Clause, shall in all cases be sentenced to a severer punishment than he is empowered to inflict under Section VII. Regulation X. of 1816, or to take away from the Magistrates and Heads of District Police the power of punishing in petty cases of Cattle stealing. But in all cases of conviction before the Criminal Judge of any of the offences speci-

fied in that Clause, he shall be competent to use his discretion in sentencing the offender to any punishment which he may think proper, provided that the punishment shall in no case exceed imprisonment with hard labor for the term of two years, and 150 stripes with a cat-of-nine tails; and petty cases of Cattle stealing shall be punishable as heretofore by Magistrates and Heads of District Police, like other petty thefts under the provisions of Section XXXIII. Regulation IX. of 1816, and Section IV. Regulation IV. of 1821.

IV. *First.*—It shall be unlawful for any person subject to the jurisdiction of the Courts in the provinces, except by the direction, or under the authority of the officers of Government, knowingly to make or mend, or to buy or sell, or conceal, or to have in his possession, any tool or instrument used exclusively for coining money, or any stamp, or mould, or dye, or other implement whatsoever, capable of producing the exact impression, or so near a resemblance as to be mistaken for the impression, of any of the gold, or silver or copper coins of the British Governments in India, or of any coin usually received as money in the British possessions in India; and it is hereby declared that every such act shall be punishable as a misdemeanor under the following rules.

Second.—On receiving a charge of any of the acts mentioned in the preceding Clause, the Magistrate, or the head of District Police, shall proceed as is directed in all other cases of misdemeanor under the general Regulations; and if there shall be reasonable grounds to believe the charge well founded, he shall forward the prosecutor, the witnesses, and the accused, with all the proceedings in the case to the Criminal Judge of the Zillah.

Third.—Any person who shall be convicted before the Criminal Judge of any of the acts mentioned in Clause 1st of this Section, without showing lawful authority, or sufficient excuse for the same, shall be sentenced to imprisonment and hard labor in irons for a term not exceeding one year for the first offence; and for a second offence, committed after his conviction of the first, he shall be sentenced to receive corporal punishment not exceeding 150 lashes with a cat-of-nine tails, and to be imprisoned and kept to hard labor in irons for a term not exceeding eighteen months.

Fourth.—For a third, or any subsequent offence, under this Sec-

tion, the offender shall be committed for trial before the Session Court; and on conviction thereof shall be sentenced to receive corporal punishment not exceeding 195 lashes with a cat-of-nine tails, and to be imprisoned and kept to hard labor in irons, in banishment at the discretion of the Judge, for a term not exceeding seven years.

V. *First*.—It is hereby declared that nothing contained in the existing Regulations was intended or shall be considered to preclude Magistrates from taking personal recognizance, or security for keeping the peace, or both, at their discretion, in all cases wherein it may appear just and necessary to require the same, for the due maintenance of the peace, within their respective jurisdictions; and if such recognizance is not entered into, or such security is not found, to commit the persons from whom they are demanded to jail; provided however, that when there is no conviction of an actual breach of the peace, the amount respectively of the recognizance and of the security to be demanded, shall in no instance hereafter exceed the sum of two hundred Rupees; and that the period for which the security is required, whether on conviction of an actual breach of the peace, or otherwise, shall in no case exceed the term of 12 months, at the expiration of which the party shall be released, if on default of security he shall have been detained in custody.

Second.—It is further provided that on petition from parties considering themselves aggrieved by the requisition of recognizances or security for keeping the peace, it shall be competent to the Session Judge to call upon the Magistrate for such explanations as may appear necessary in such cases; and on due consideration thereof to order the discharge, or to alter the amount of the recognizance and securities, or to direct the release of the persons confined, if he shall see fit.

Third.—Magistrates are hereby declared competent, at their discretion, to discharge recognizances and securities for keeping the peace taken by themselves, and to order the release of persons confined under their own order in default of entering into such recognizances, or giving such securities.

Sec. V. Cl. 2.—This Clause was specially declared applicable to Session Judges, by Sec. XXXVII. Act VII. of 1843.

VI. *First.*—In addition to the power granted to Magistrates by Clause 1st, Section III. Regulation II. of 1822, it shall be competent to them, to require security for good behaviour from persons of the descriptions therein specified, and in default of its being given, to order such persons to be received and detained in the custody of the Criminal Judge.

Second.—In all cases wherein a Magistrate may require security for appearance under Clause 1st, Section III. Regulation II. of 1822, or security for good behaviour under Clause 1st of this Section, he shall record the informations or evidence on which his proceeding is founded, to be transmitted to the Session Judge, if that officer should see fit to call for them.

Third.—The provisions of Clause 3rd, Section III. Regulation II. of 1822, shall be applicable to persons confined under Clause 1st of this Section.

VII. *First.*—In every instance in which security may be hereafter required, whether by the Magistrates, Criminal Judges, the Session Courts, or the Foujdaree Udalut, the amount of security, the number of sureties (to be fixed at the discretion of the officer or Court requiring the security), and the period of time for which the sureties are to be responsible, shall be fixed and determined.

Second.—The amount of such security shall never be excessive; but shall be always fixed with reference to the situation and circumstances in life of the person from whom it is demanded, as well as to the cause for requiring it; and shall in all cases be such as it would be equitable to enforce in the event of a breach of the engagement.

Third.—The period of time during which persons may be made liable to detention in custody, on failure to furnish the security required from them, shall hereafter be specifically fixed in every instance except in the cases hereinafter particularly mentioned.

VIII. *First.*—Whenever the Magistrates under the authority granted to them by Clause I. Section III. Regulation II. of 1822, and by Section VI. of this Regulation, or the Criminal Judges un-

Sec. VII. Cl. 1.—The sureties should give *bail* in the amount prescribed. The mere deposit of the amount by the party held to security, was not contemplated by the law except in those cases in which persons are required to enter into their personal recognizances under Cl. 1. of Sec. V.—*F. U. 12th April 1850.*

der the authority vested in them by Clause I. Section IV. Regulation II. of 1822, may require security, they shall in all cases in which they may deem it safe so to do, provide in their order for the release of the prisoner at the end of a definite period, not exceeding twelve months.

Second.—It shall not be necessary for the Session Judge, to revise the proceedings of the Criminal Judge, in the cases referred to in the preceding Clause, except on petition presented by the prisoners, when the Session Judge is empowered and directed to call for the proceedings, and on his own authority to annul, modify, or confirm the orders of the Criminal Judge.

Third.—In all cases in which a Magistrate, or Criminal Judge, from the evidence adduced before him, shall be of opinion, that the prisoner is by habit a robber, burglar, or thief, or a vendor or receiver of stolen property, knowing the same to have been stolen, of a character so dangerous, desperate, or irreclaimable, as to render his release, without security, at the expiration of the limited period of twelve months above specified, hazardous to the community, he shall record his opinion to that effect, with an order specifying the amount of security, which should in his judgment be required from the prisoner, as well as the number of sureties, and the period for which the sureties should be responsible for the prisoner's good behaviour.

Fourth.—If the prisoner shall not furnish the security so required, the whole of the proceedings shall be laid before the Session Judge, who, after examining them, and requiring any further evidence which he may judge necessary, shall be competent of his own authority to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or Criminal Judge as he may deem proper and equitable.

Fifth.—In all such cases, if the Session Judge shall not think it safe to direct the immediate discharge of the prisoner, he shall fix a limited period for his provisional detention in the event of his not giving the security required from him, which period shall never exceed three years, except in the cases specified in the following Section.

IX. First.—Whenever the Session Judge, from the proceedings before him in the cases referred to in Clause 5th of the preceding Section shall consider the prisoner to be of a character so notoriously bad and dangerous, as to render his release, without substantial security, evidently unsafe and improper, it shall be competent to him to order the indefinite confinement of the prisoner on default of giving the requisite security.

Second.—In these cases, the Session Judge shall nevertheless fix the amount of the security to be required from the prisoner, and shall provide in his order, that if the prisoner shall not be able to furnish the security required, within the period of three years from the date of such order, the prisoner in question shall be again brought up before the Session Judge, whose duty it will be, after examining the proceedings, and making any further enquiries he may judge necessary, to determine whether the prisoner shall then be released, or whether he shall again be remanded, either on the same terms as before, or on any modified terms favourable to the prisoner.

Third.—With a view to encourage respectable individuals to become sureties for prisoners of the description alluded to in the foregoing Clauses of this Section, the period for which the sureties are to be responsible for the good behaviour of the individuals, shall be in all cases limited to three years; subject however to the condition, that the sureties, at the expiration of that period, shall be bound to deliver up the individuals to the Criminal Judge.

Fourth.—When an individual shall be surrendered by his sureties under the foregoing rule, the Criminal Judge shall ascertain whether the former sureties are willing again to become responsible for the future good behaviour of the prisoner, for a further period not exceeding three years; and, in the event of the sureties being willing to become again responsible for the conduct of the prisoner, the Criminal Judge shall accept the security, and release the prisoner on the same terms as before.

Fifth.—If the former sureties shall decline to become again responsible for the prisoner, and the prisoner shall be unable to furnish any other sufficient security, the Criminal Judge shall detain him in custody, and the prisoner is again to be brought before the Session Judge, for such further orders, as he may consider it proper to pass in the case.

X. *First.*—Whenever a Session Judge, or the Court of Foujdaree Udalut, under the provisions of Clause 6, Sec. II. Reg. XV. of 1803, may require security for the good behaviour of a prisoner, the period fixed for such prisoner's detention in custody, on failure to furnish the security required, shall not exceed three years, except in the cases specified in the following Clause.

Second.—Whenever there may not be adequate proof for the prisoner's conviction of the specific offence charged, but from the evidence adduced, he may appear to be of a character so notoriously bad and dangerous, as to render his release, without substantial security, evidently unsafe and improper, the Session Judge in cases before him, or the Court of Foujdaree Udalut in trials referred to them, shall be competent to order the indefinite confinement of the prisoner on default of giving the security required.

Third.—To these cases the provisions of the second and following Clauses of Section IX. of this Regulation shall be applicable; but when a Session Judge, by virtue of the authority vested in him by the latter part of Clause 2 of that Section, shall modify the terms of the security required to be taken under the orders of the Foujdaree Udalut, he shall report the same for the information of that Court.

XI. *First.*—The Criminal Judges are empowered to exercise their discretion in releasing, without reference to any other authority, prisoners confined under requisition of security for good behaviour, whether by their own orders, or by those of any other person discharging the functions of a Criminal Judge, provided they shall, from whatever cause, be of opinion that such prisoners can be released without hazard to the community.

Second.—Whenever a Criminal Judge may, for whatever reason, be of opinion that a prisoner confined under requisition of security for good behaviour by order of the Session Court, or of the Foujdaree Udalut, can be safely released without such security, he shall make an immediate report of the case, with his opinion, for the orders of the Court which may have required the prisoner to furnish security previously to his release.

XII. *First.*—Sureties for the peace, and Sureties for good behaviour, shall at all times be discharged from further responsibility, on delivering up to the proper Magistrate or Police officers, the persons for whom they have become responsible; and they shall not be made

answerable for the amount of the security bond in cases wherein they shall give timely information to the Magistrate that the persons for whom they have become Sureties have taken to bad courses, and shall use every exertion in their power for the apprehension and surrender of such persons.

Second.—Criminal Judges are hereby directed to transmit to the Magistrates in their respective jurisdictions, lists of the persons from whom they may take security for good behaviour, whether by their own authority, or under directions from the Session Court, or Foujdaree Udalut. The lists shall specify the names of such persons, and of their Sureties, the amount of the security, and the period for which it is taken.

Third.—Individuals surrendered by their Sureties, or re-apprehended by the Magistrates under this Section, shall be immediately forwarded to the Criminal Judge.

XIII. *First.*—Persons confined on a requisition of security for appearance under Clause 1st, Section III. Regulation II. of 1822, or on a requisition of security for good behaviour under Sections VIII. IX. and X. of this Regulation, shall be subjected, at the discretion of the Criminal Judge, to compulsory labour, suited in kind and degree, as well as may be, to their caste, age, strength and other circumstances. Provided always, that persons confined under Clause 1st, Section III. Regulation II. of 1822, or under Clause 1st, Section VIII. of this Regulation, shall be made to work separately from convicts, and without irons : and that no persons confined by direction of the Session Courts and Foujdaree Udalut shall be made to work in irons, unless an order to that effect, to be issued only in the cases of a bad or dangerous character, is contained in the warrant directing his detention in custody on default of security.

Second.—Any person apprehended in a Zillah different from that in which he has been accustomed to reside, and ordered to be detained in custody on a requisition of security, shall be removed to the Jail of the Zillah in which his usual place of residence is situated, on his application to that effect, for the purpose of being enabled the more easily to furnish the security required.

REGULATION VIII. OF 1827.

A Regulation for granting to Principal Sudder Ameens, jurisdiction in Criminal cases.

II. *Principal Sudder Ameens*, appointed under Regulation VII. of 1827—shall also have *jurisdiction in Criminal cases*.

III. Every Principal Sudder Ameen previous to entering on the duties of his office shall *make* and subscribe before the Governor in Council, or before any person whom the Governor in Council may commission to *receive* it, a similar declaration to that which is directed by Sec. II. Reg. X. of 1816, to be *made* and subscribed by *Subordinate Criminal Judges*.

IV. Principal Sudder Ameens shall exercise within the limits assigned to their local jurisdiction, the full power and authority of Criminal Judges, and in all matters relating to the discharge of their functions, shall be guided by the provisions of Regulation X. of 1816, and of such other Regulations as have been, or may hereafter be enacted for the guidance of Criminal Judges: provided always that they shall not have jurisdiction over any European or American.

V. Europeans and Americans against whom there is evidence of having been concerned in any crime or misdemeanor, shall be sent before the Subordinate Criminal Judge, or Magistrate, as the case may require; or security shall be taken for their appearance.

Reg. VIII. of 1827.—“*Principal Sudder Ameen*,” in original “*Native Judge*.”—The designation was thus changed by Act XXIV. of 1836—much of this Regulation has been modified, or virtually repealed by Sections XXIX. and XXX. Act VII. of 1843. Those parts only are retained which remain in practical force.

Sec. V. Where the Subordinate Court is presided over by a Principal Sudder Ameen, Europeans, not being British subjects, and Americans, are directed by Sec. XLIII. Act VII. of 1843, to be sent for trial to the Session Judge—who shall proceed thereon in conformity with the rules applicable to his own Court, or the *Subordinate Court*, as the case may require.

XI. It shall not be necessary that any complaint, charge, or other document whatever, in the Court of a Principal Sudder Ameen, shall be recorded in the English language, or have a translation into any language annexed to it.

XIV. *First.*—It shall be competent to the Governor in Council, by an order in Council, to authorize any Principal Sudder Ameen to exercise the same power as a Magistrate may now, or hereafter be empowered by any Regulation to exercise, in respect of all persons sent before him by any Head of Police, charged with offences punishable by a Magistrate; and on the publication of such order in Council by proclamation, Heads of Police shall send to the Principal Sudder Ameen, instead of to the Magistrate as before, all persons (Europeans and Americans excepted,) against whom there is evidence of having, within the Principal Sudder Ameen's jurisdiction, committed, or been concerned in, any offence punishable by the Magistrate, but to which the punishment which they are themselves empowered to inflict, shall not appear to them adequate; together with the prosecutor and witnesses.

Second.—Provided always, that nothing in this Section contained shall be construed to prevent the Magistrate of the district from exercising the powers vested in him by the Regulations when residing within the limits of the Principal Sudder Ameen's jurisdiction, or to authorize the Principal Sudder Ameen to exercise any authority over the Police, except in the cases specified in Regulation III. of 1817.

Third.—Any Summons or other Criminal process which a Principal Sudder Ameen, acting under this Section, may have occasion to issue, shall be served by Peons of his own Court, and Section XLI. Regulation IX. of 1816, shall be applicable to the Peons so employed.

Sec. XIV. Cl. 2. "Cases specified in Reg. III. of 1817.—Emergent cases arising in the absence of the Magistrate.

REGULATION I. OF 1828.

A Regulation to provide for the Sentences of Native Courts Martial being carried into execution, in certain cases, at the Zillah Criminal Courts.

II. Whenever any person subject to the rules and articles contained in Act XIX. of 1847—shall have been sentenced by a Court Martial under articles 107 or 156 of that Regulation, it shall be competent to the officer Commanding the troops with which such person was serving when sentenced, to send him to the nearest Zillah Jail within the territories subject to the Presidency of Fort St. George, to have the whole, or part of his sentence carried into execution.

III. Whenever a Commanding officer shall send a convict to any Zillah Jail, under the preceding Section, he shall deliver to the person who is sent in charge of the convict, a copy of the confirmed sentence of the Court Martial, duly certified by the proper officer; and also a paper, in duplicate, in the following form.

Descriptive Roll of a Convict sent to the Judge in charge of the Jail at ————— under Regulation I. of 1828.

Name and designation or rank of the Convict.	Name of his native place and of the Zillah in which it is situated.	Of what offence convicted.	To what punishment sentenced.	Whether any and what part of the sentence executed.	Date on which the Convict set out.

A. B.

Officer Commanding.

Sec. II. "*Act XIX. of 1847.*"—In original V. of 1827, which was superseded by Act XX. of 1845, and that again by Act XIX. of 1847.—Articles 84 and 86 of which require Civil Magistrates to give effect to sentences of Courts Martial—by Act VIII. of 1844, the Governor in Council may order the removal of a Military prisoner from one prison to another.

IV. The person in charge of the Convict shall on his arrival at the Jail, deliver him over to the Judge, together with the copy of the confirmed Sentence and the Descriptive Rolls. The Judge shall receive them, whether in or out of Court, and shall immediately take charge of the prisoner and cause him to be examined by the Medical officer of the Station, if there is one, or by the Native Doctor in charge of the Jail, who shall certify in writing to the Judge in what state the prisoner has arrived, and whether he appears to have had due care taken of him on the route.

V. The Judge shall deposit the copy of the confirmed sentence with the records of his Court, and return the duplicate Descriptive Roll to the person who delivered it; having first endorsed on it, under his official signature, the date on which the prisoner was received by him, and the substance of the certificate of the Medical officer or Native Doctor provided for in the preceding Section. The original Descriptive Roll, endorsed in the like manner shall be deposited with the records of the Court.

VI. The Judge shall proceed to cause the confirmed Sentence of the Court Martial, or the part of it remaining unexecuted, to be executed according to law in the usual manner : and the provisions of the General Regulations regarding prisoners shall be applicable to persons confined under this Section.

VII. In the case of any Native officer or soldier confined under the preceding section, if it shall not appear from the copy of the confirmed Sentence that he has been discharged from the service, the Judge shall give notice to the Adjutant General of the Army of the date on which the sentence will expire, forty days at least before that date, in order that a proper guard may be sent to take charge of the convict on his release, and reconduct him to his corps ; and the convict shall on his release be delivered to the guard so sent ; and the Judge shall give a certificate of his behaviour while in Jail.

REGULATION VIII. OF 1828.

A Regulation for abolishing the use of the Rattan as an instrument of punishment, and for substituting in lieu thereof the Cat-of-nine tails.

II. The use of the Rattan as an instrument of punishment is hereby abolished.

III. Henceforward persons who, under any Regulation heretofore in force would have been sentenced to receive stripes with a Rattan, shall, in lieu thereof, be sentenced to receive lashes with a cat-of-nine tails.

IV. Five lashes with a cat-of-nine tails shall be considered equivalent to one stroke of a Rattan.

V. The cat-of-nine tails to be used shall be invariably supplied from the stores of Government, and no other cat-of-nine tails shall be used but such as shall be so supplied ; nor shall any additional knot be tied, nor any new material introduced, nor any alteration made in any cat-of-nine tails in use, by way of repair, or on any pretence whatever ; and any Native officer offending herein shall be liable to be fined at the discretion of the Criminal Judge or Magistrate, to whichsoever he may be subordinate.

Sec. II. The use of the CORAH, or any other instrument of punishment than the cat-of-nine tails was subsequently forbidden by Reg. II. of 1830.

REGULATION IX. OF 1828.

A Regulation for rescinding such parts of the existing Regulations as prescribed forms for periodical Reports, Calendars, Registers, or other Statements to be furnished by the Criminal Courts, and required the same to be forwarded at periods specified.

III. The Court of Foujdaree Udaltut, subject to the orders of Government, shall from time to time as circumstances require prescribe the forms, and fix the periods for the transmission of all Reports, Calendars, Registers, or other Statements to be furnished by the Criminal Courts—European or Native under this Presidency.

REGULATION VI. OF 1829.

A Regulation for modifying the enactments contained in Section VIII. Regulation I. of 1825.

II. *First.*—In modification of 'Section VIII. Regulation I. of 1825, it is hereby enacted that it shall be competent to a Session Judge to pass sentence, without reference to the 'Court of Foujdaree Udalt, on all persons convicted before him of any crime by law punishable by a Session Judge, notwithstanding any objection taken to the deponents by the Law officer, provided such objection consists of any of the following personal exceptions to the witnesses or prosecutors.—1st. That they are officers of Police, or in the service of Government; or the persons who took the prisoner into custody; 2ndly, that they are persons not of the Mahomedan persuasion; 3rdly, that they are prosecutors, or stand in the situation of prosecutors, from having been injured by the prisoner; 4thly, that they are women; 5thly, that they are near-relations of the prosecutor; 6thly, that they are masters, servants, or slaves of the prosecutor.

Second.—But if the Law objects to the conviction of the prisoner, on the ground of the insufficiency to conviction of the testimony itself, or on any other ground separate and distinct from the personal exceptions specified in Clause 1st, the trial shall be referred to the Court of Foujdaree Udalt as heretofore.

REGULATION VIII. OF 1829.

A Regulation for the punishment of the fraudulent appropriation, or the unlawful and malicious obliteration or destruction, of Judicial Records, and for defining the course of the proceedings to be observed, in bringing to trial persons charged with perjury, or subornation of perjury, before certain tribunals.

II. *First.*—If any person shall steal, or shall, for any fraudulent purpose, take from its place of deposit for the time being, or from any person having lawful custody thereof, or shall unlawfully and maliciously obliterate, injure, or destroy, any record, pleading, decree, precept, return, process, deposition, or other original document whatever, of or belonging to any European or Native tribunal of Civil or Criminal Jurisdiction, under this Presidency, every such person shall be liable to trial for the same before the Session Court, and being convicted thereof, shall be liable to be imprisoned, with hard labor in irons, for a period not exceeding 7 years, and to lashes with a cat-of-nine tails not exceeding one hundred.

Second.—In modification of Section VIII. Regulation X. of 1816, the Criminal Judge or Joint Criminal Judge, without the intervention of the Magistracy, shall have primary cognizance of all such charges, whether the same are brought forward by individuals, or by the European or Native officers superintending the said Courts.

III. *First.*—In further modification of the provisions contained in Section VIII. Regulation X. of 1816, it is hereby enacted that in all cases wherein any person giving evidence on oath, or *under solemn affirmation*, before a Magistrate or Collector, a Joint or Assistant Magistrate, or a Subordinate or Assistant Collector, or before a Principal Sudder Ameen, Sudder Ameen, District or Village Moonsiff, or Dis-

strict or Village Panchayet may be considered by the tribunal before which such evidence is given, to be guilty of wilful perjury, or subornation of perjury, as defined by law, the accused shall be forwarded, with the proceedings on which the charge is founded, to the Criminal Judge, by the tribunal before which the said proceedings may have been held, with the sentiments of that tribunal on the case; and the Criminal Judge shall dispose of the same under the General Regulations.

Second.—In the event of committing such cases for trial before the Session Court, the Criminal Judge shall appoint the Vakeel of Government to conduct the prosecution before that Court.

Third.—The restrictions contained in Section XXIX. Regulation IX. of 1816, against the prosecution for perjury, or subornation of perjury, of witnesses or parties in the Civil Courts, and in Section VIII. Regulation II. of 1822, against that of witnesses or prosecutors in the Criminal Courts, unless the officers presiding in those Courts respectively, shall be of opinion that grounds exist for such prosecutions, are hereby extended to all charges of perjury and subornation of perjury against witnesses or parties, or against witnesses or prosecutors, as the case may be, before any of the public officers or tribunals referred to in Clause 1st, unless such officers or tribunals shall be of opinion that grounds exist for such prosecution.

REGULATION I. OF 1830.

A Regulation for declaring the practice of Suttee, or of burning or burying alive, the Widows of Hindoos, illegal, and punishable by the Criminal Courts.

II. The practice of Suttee, or of burning or burying alive the Widows of Hindoos, is hereby declared illegal, and punishable by the Criminal Courts.

III. *First.*—All Zemindars, Talookdars, or other Proprietors of Land, whether Malguzaree or Lakheraj; all Sudder Farmers and under-renters of land of every description; all dependent Talookdars; all Naibs and other local Agents; all Native Officers employed in the collection of the Revenue and Rents of Lands on the part of Government, or the Court of Wards; and all Head Men of Villages; are hereby declared especially accountable, for the immediate communication to the Officers of the nearest Police Station, of any intended sacrifice of the nature described in the foregoing Section; and any Zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred Rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months.

Second.—Immediately on receiving intelligence that the sacrifice, declared illegal by this Regulation, is likely to occur, the Head of Police shall either repair in person to the spot, or depute one of his subordinate Officers, accompanied by one or more peons of the Hindoo religion, and it shall be the duty of the Police Officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavor to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will

involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the Police Officer to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

Third.—Should intelligence of a sacrifice, declared illegal by this Regulation, not reach the Police Officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot; they will nevertheless, institute a full enquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate, to whom they may be subordinate.

IV. *First.*—On the receipt of the reports required to be made by the Heads of Police, under the provisions of the foregoing Section, the Magistrate or Joint Magistrate of the jurisdiction in which the sacrifice may have taken place, shall enquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it, to trial before the Session Court.

Second.—All persons convicted of aiding and abetting in the sacrifice of a Hindoo Widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine, or by imprisonment, or by both fine and imprisonment, at the discretion of the Session Court, according to the nature and circumstances of the case, and the degree of guilt established against the offender; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed, to assist in putting her to death.

Third.—Persons committed to take their trial before the Session Court for the offence above mentioned, shall be admitted to bail or not, at the discretion of the Criminal Judge, subject to the general rules in force in regard to the admission of bail.

V. It is further deemed necessary to declare, that nothing contained in this Regulation shall be construed to preclude the Court of Foujdaree Udalut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo widow, while labouring under a state of intoxication, or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the Court may see no circumstances to render him or her a proper object of mercy.

REGULATION III. OF 1831.

A Regulation to provide for the more effectual administration of Justice in certain cases.

II. If any number of persons assemble together in a manner indicating an intention to commit an unlawful act, or inconsistent with public tranquillity, it shall be competent to the Magistrate to order them to disperse; and to punish those who may not comply with such order, with fine not exceeding fifty Rupees, or imprisonment, without labour, not exceeding one month.

III. Persons twelve or more in number, assembling for riotous or rebellious purposes, or for the purpose of interfering with, or obstructing, the collection of the revenue, and refusing to disperse when called upon to do so by the local authorities, or reassembling after having dispersed, shall be liable to be tried by the Session Court, and on conviction, shall be sentenced to imprisonment, for a period not less than three, nor exceeding ten years.

IV. Any persons who shall address threats to the established Government, or threats to any of its agents, or of his officers under it, for the purpose of procuring alteration of the law, or rendering it nugatory; or shall institute or join any conspiracy, ratified by any sort of bond, oath or agreement, between individuals, to execute the said measures, shall be liable to be tried before the Session Court, and shall, on conviction, be sentenced to imprisonment for a period not less than three, nor more than ten years.

V. Any ryot refusing to attend at the annual settlement of revenue when summoned by the Collector, or the Tahsildar, for that purpose, shall be liable for the first offence to a fine not exceeding fifty Rupees, or one month's imprisonment, at the option of the Collector; and for the second offence, to a fine not exceeding two hundred Rupees, or three months' imprisonment; and upon the repetition of the offence, to be imprisoned by order of the Collector for any period not exceeding one year.

REGULATION V. OF 1831.

A Regulation to modify and amend the provisions in force, for the recovery of the penalties prescribed for certain breaches of the Salt and Tobacco Laws.

II. Such parts of Regulation I. of 1805, of Regulation II. of 1807, as require that the penalties prescribed for certain breaches of the Salt Laws shall be sued for in the Courts of Udaltut, are hereby repealed; and every such penalty, shall be recoverable by a criminal prosecution, under the rules contained in the following Sections.

III. *First*—Whenever a Magistrate shall receive information of a breach of the prohibition contained in Clause 1st, Section VIII. Regulation I. of 1805, and shall see no cause to distrust the truth of the information, he shall issue a summons under his official seal and signature, to be served by any Police officer, calling upon the person accused to appear either in person or by Vakeel, to answer to the charge on or before a certain day to be specified in the summons.

Second.—If the accused shall not appear, before the Magistrate in person, or by Vakeel, according to the exigence of the summons served upon him, the Magistrate shall issue a warrant for his apprehension, and if he shall abscond or conceal himself so that he cannot be found, the Magistrate shall proceed as directed in the several clauses of Section XVII. Regulation IX. of 1816.

Third—On the appearance of the accused in person, or by Va-

Reg. V. of 1831.—“*Tobacco*.”—The monopoly of this article was abolished—and all penal enactments relative thereto, rescinded by Act IV. of 1853—Tobacco is subject to a town duty on entering Madras under Reg. III. of 1820—which may be extended to other principal towns of the Presidency by Reg. IX. of 1831—and the same provisions may be applied to *Ganja* and Bhang under Act XIV. of 1838—which enactments it is not necessary to enter in this work.

Sec. III. Cl. 1.—“*Prohibition in Sec. VIII. Reg. I. of 1805*”—against establishment of Salt works by landed proprietors or others.

keel, the Magistrate shall enter into an investigation of the charge, and if upon the evidence it shall appear to him that the charge is well founded, he shall require the accused to give bail to an amount not exceeding the sum of four hundred Rupees, for his appearance in person or by Vakeel, to answer the charge before the Criminal Court, on or before a day to be specified in the bail bond, and if the bail required be given, the witnesses shall be bound over to attend the Criminal Court on the day specified. But if the required bail be not given, the accused shall be taken into custody, and sent with the witnesses and all the proceedings held in the case, to the Criminal Court.

Fourth.—The rules contained in the foregoing Clauses are hereby declared to be applicable to all cases in which proprietors, farmers or renters of land, or managers of estates shall be charged with the offence described in Section XIII. Regulation I. of 1805, and to all cases in which a proprietor, landholder, farmer or renter of land, or any manager of an estate in Malabar or Canara, shall be charged with the offence specified in Section III. Regulation II. of 1807, which is hereby declared applicable to farmers or renters of land, or managers of estates, in common with proprietors and landholders.

Fifth.—Tahsildars and other inferior officers of Police are hereby prohibited from taking cognizance of any of the offences before referred to, if committed by the parties specified in the preceding Clauses, the primary cognizance of such offences being exclusively confined to the Magistrates and their Assistants.

Sixth.—On receiving information of any other breach of the Salt laws, the Magistrate and the Subordinate officers of Police shall proceed against the person or persons accused, in the same manner as against persons charged with offences, the punishment of which rests with the Criminal Court.

Sec. III. Cl. 4.—“*Offence described in Sec. XIII. Reg. I. of 1805.*”—Proprietors and others not giving notice of Salt made in, or imported into their lands.

Sec. III. Cl. 6.—By Act XVII. of 1840, all penalties for petty breaches of the Salt laws are recoverable before Magistrates, without reference to the Criminal Courts—and heads of Police may also try such cases within certain limits under Act VII. of 1852.

The Collectorate of Madras is exempted from the jurisdiction of the Magistrate or Criminal Court of Chingleput, in respect of offences relative to the public revenue by Act XXII. of 1837,

IV. *First.*—The Criminal Courts, in the trial of charges brought before them under the preceding Section, shall proceed as directed in Clause 6th, Section II. Regulation VI. of 1822 ; and on conviction shall sentence the offender to pay the penalty specifically prescribed for the offence ; or in other cases, such penalty as may appear just and proper ; provided however, that when the penalty to be adjudged is not by the Regulations specifically defined, or limited in its amount, it shall in no case exceed the sum of 200 Rupees. If the offender shall omit to refuse to pay the fine, the Criminal Court shall sentence him to imprisonment, in the Jail for debtors, or in the Criminal Jail, according to the character and situation in life of the offender, until the fine be paid ; provided however, that such imprisonment shall in no case exceed the term of two years.

Second.—All prosecutions before the Criminal Judge, under this Regulation, shall be conducted by the Vakeel of Government, to whom the Collector shall, in each case, furnish such instructions as appear necessary.

V. *First.*—If a person who has given the bail required by Clause 3d, Section III. of this Regulation, shall fail to appear in person or by Vakeel, before the Criminal Court on the day specified in the bail bond, the charge shall be tried *ex parte* ; and if the charge be established by the evidence, the Criminal Court shall forthwith issue its warrant, for levying the fine adjudged ; on default of the immediate payment of which the offender shall be taken into custody and imprisoned as directed in the preceding Section.

Second. In the cases provided for in the preceding clause, it shall be the duty of the Criminal Court, whether the accused be convicted or acquitted, to declare the security given by the accused to be forfeited ; and the Criminal Court shall forthwith proceed, in the ordinary manner, to levy the amount from the sureties.

VI. All proceedings held by the Criminal Courts under this Regulation shall be subject to revision by the Session Courts, and by the Court of Foujdaree Udalut ; and those Courts are hereby empowered and directed to call for the proceedings in any case, in which, upon the petition of a party considering himself aggrieved, or upon other information before them, such revision may appear requisite for the ends of justice.

REGULATION VII. OF 1832.

*A Regulation * * * for enacting rules for the better order and discipline of Military Bazaars; the more effective administration of justice and of the Police at the Stations where such Bazaars are established, and at certain other Military Stations; the extension of the powers of Courts Martial; and the more effectual prevention of the undue use of spirituous and fermented liquors and intoxicating drugs by the European troops under this Presidency.*

III. *At Military Bazar Stations, Police authority vested in Commanding Officer, within Military limits: plans whereof shall be deposited with the Magistrate of the District.*

IV. *Senior Commissariat Officer, or such other Officer as Government may appoint, to have immediate charge of the Police within such limits.*

Reg. VII. of 1832.—Such portions only of the enactment, are here given, as mutually concern the Civil and Military authorities—See also Act XIX. of 1817, and Reg. I. of 1828.

Sec. IV.—The Judges are of opinion, that Junior Commissariat Officers are not competent to perform the duties vested by this Section in the Senior Commissariat Officer of the station, or such other officer as may be especially appointed by Government.

* * * * *

Referring to the concluding para. of the orders of Government, dated the 6th January 1835, the Judges conclude that the ——— is mistaken in supposing it to be the intention of Government, that *all* Commissariat Officers should qualify as Justices of the Peace,—and that it is intended only, that all the Commissariat Officers competent to the discharge of Police duties (namely *Senior* Commissariat Officers at Stations), should so qualify.—*F. U. 19th Feb. 1835, V. M. p. 21.*

Such Officer is the authority at those Stations, under whose orders, Inquests, whether upon the bodies of Europeans, or Natives, are to be held.—*F. U. 6th June 1835, V. M. p. 68.*

VI. *Such Officer may apprehend by warrant parties within his jurisdiction, charged before him on oath, or solemn affirmation, with heinous offences : or they may be arrested on hue and cry without warrant. Persons charged with minor offences, being first summoned. Vagrants, or persons of suspicious or notoriously bad characters may also be apprehended on warrant.*

VII. Persons apprehended under Section VI. shall, within twelve hours after their apprehension, be delivered over by the Commanding Officer, as provided in Section XXXIV. to the Magistrate, Joint Magistrate, or Assistant Magistrate ; or in their absence, to the nearest Native Officer of Police under them, unless the prisoner is charged with one of those particular offences which have been, or may be, by law, made punishable by Courts Martial, or by the Officer in immediate charge of the Police under this Regulation ; and is a person by law declared amenable to these tribunals.

VIII. *First.—May summon as witnesses persons residing within Military limits, unless woman of rank or caste, whose deposition shall be recorded in writing.*

Second.—When Officers in charge of the Police under this Regulation shall require the attendance of witnesses residing without Military limits, the summons shall be sent to the principal Native Officer of the Village in which the witness resides, to be served by him, unless there be a European Civil Officer in the Magistracy on the spot, in which case it shall be sent to him to be served ; if the witness resides more than four miles beyond such limits, the Officer Commanding shall send the summons to the nearest European Civil Officer in the Magistracy, with a letter in the form contained in the Appendix C. to this Regulation. The Civil Magisterial Officer shall immediately countersign the summons, and cause it to be served, endorsed, and returned accordingly.

Sec. VIII. *Letter in Form C.*—I have the honor to transmit to you the enclosed summons, which I request that you will countersign, and cause to be duly served and returned to me, endorsed by the party summoned with his acknowledgment.—I am, &c.

Sec. XI. In the original this applied also to witnesses summoned by a Court Martial, but by Article 64, Act XIX. of 1847, a different procedure is prescribed in such cases. In respect to the offence when committed towards the Officer in charge of the Police under this Regulation, the law remains in force under Article 156, Act XIX. of 1847.

XI. *First.*—*Witnesses not attending, or refusing to give evidence, or to sign their depositions, punishable by fine not exceeding Rupees 200 and imprisonment while contumacious.*

Second.—*If fine be not paid, or be leviable by distress within Military limits ; application shall be made by the Commanding Officer to the Zillah Judge, within whose jurisdiction any property of the offender shall be situated ; according to the form D. in the Appendix.*

Third.—The Judge shall levy the amount specified in such application from any property belonging to the offender which may be found within the jurisdiction of his Court : and shall communicate the result of his proceedings, and remit the amount to the Commanding Officer.

XII. Whatever person, having made oath or solemn affirmation before an officer in charge of the Police under this Regulation, shall wilfully and deliberately depose falsely, touching any point material to the issue of the cause pending, such person, if subject to the Rules and Articles of War for the government of the Native Army under this Presidency, shall be dealt with according to those Rules and Articles ; and if not subject to the same, shall be sent by the Commanding Officer, as provided in Section XXXIV. to the nearest Criminal Judge, together with the original deposition on which the perjury is assigned, duly signed and certified, and the witnesses who can prove the fact which falsifies the deposition, and also the witnesses who can prove the wilful and deliberate giving of the deposition. The Criminal Judge shall dispose of the case under Section IX. Regulation X. of 1816 : on conviction before the Session Court, such person shall be liable to the punishment provided for perjury by Clause 1st, Section III. Regulation VI. of 1811.

XIII—XIV. *Authorize punishment of certain petty offences committed by Military persons, &c. therein mentioned, by Court Martial,*

Sec. XII. *Shall be dealt with according to these Rules.*—The offence of Perjury or subornation of Perjury may be tried by Court Martial under Article 67, Act XIX. of 1847, and the accused, if convicted, “ shall be dismissed the service, and shall be further subject to fine to the amount of his arrears of Pay and allowances, or to imprisonment which may extend to three years ”—according to the sentence of a General, or District, or Garrison Court Martial.

and in some instances by Officer in charge of Police to the extent specified in Section XV.

XV. *First.*—The persons specified in Sections XIII. and XIV. if convicted of simple theft not exceeding twenty Rupees, unattended by circumstances of violence or outrage, or of receiving stolen property not exceeding twenty Rupees in value, knowing it at the time to have been stolen; and servants of Military Officers, if convicted of embezzlement or wilful misapplication of money entrusted to them by their masters, not exceeding twenty Rupees, shall be sentenced to imprisonment with hard labor not exceeding one month, or to lashes not exceeding fifty with a cat-of-nine tails, or to both in aggravated cases. If convicted of any other of the offences therein enumerated, such persons shall be sentenced to imprisonment not exceeding one month; provided always, that persons above the condition of petty dealers, menial servants, or workmen, if found guilty of a breach of local or bazaar Regulations established by the Commanding Officer under the orders of the Government, shall be sentenced only to pay a fine, in no case exceeding one hundred Madras Rupees; and if the fine be not paid forthwith, to imprisonment not exceeding one month in lieu of it.

Second.—Within the territories subject to this Government, if any person specified in Sections XIII. or XIV., accused of the offences therein enumerated, shall appear, upon due investigation *previous* to trial, deserving of severer punishment that is authorized in the preceding Clause, he shall be sent to the nearest Criminal Judge, together with the prosecutor and witnesses, in the manner directed by Section XXXIV.

XVI. *First.*—*Provides for the trial of Natives smuggling or attempting to smuggle liquor or intoxicating drugs; illegally selling them to, or for, Europeans; or illegally having in possession more than a certain quantity of the same within Military limits.*

Second.—Natives convicted under the preceding Clause, shall be sentenced to be imprisoned with hard labor not exceeding one month, or to lashes not exceeding fifty; and for aggravated offences,

Sec. XVI. The term "Native" does not here include Native Soldiery.—*F. U.* 17th June 1837, *C. R.* p. 328.

to both ; provided always, that persons convicted of having liquor or drugs in their possession as aforesaid, shall not be sentenced to corporal punishment for the first offence.

XIX. Whenever it may be necessary, within the territories subject to this Government, to carry into effect a sentence of imprisonment and hard labor, under this Regulation, the Commanding Officer shall forward the person sentenced to the nearest Criminal Court, with an authenticated copy of the sentence, in the mode prescribed by Section XXXIV. of this Regulation : the Criminal Court shall receive such persons, and imprison and work them in conformity with their sentence. Beyond the frontier such sentences shall be carried into effect as the Officer Commanding may direct.

XX. Nothing contained in this Regulation is intended to prevent the Civil authorities from taking cognizance of charges against Military persons, for offences committed either in or out of the Military limits, which by law may be cognizable by the Civil tribunals *only* ; or to render amenable to Courts Martial, or to punishment by the officer in charge of the Military Police, accused persons arrested within the Military limits, though in the habit of resorting to the Military Bazaar, who are not included in any of the Military classes specified in Section XIII ; unless they be Natives infringing the provisions of Section XVI. of this Regulation. All other accused persons must invariably be made over to the Civil Magistracy ; or in their absence to the nearest Native Police Officer under them, as directed in Section VII ; and it is hereby declared, under Clause CV. of the Act of Parliament of the 53rd Geo. III. Cap. 155, published in Regulation II. of 1820, that all British subjects of His Majesty, as well as the servants of the East India Company, as others, are liable to prosecution before the Magistrate or Criminal Judge of the Zillah, and to be fined to the extent of five hundred Rupees.

XXXIV. *First.*—Whenever, under the provisions of this Regulation, it shall be necessary to forward any person to a Criminal or

Sec. XIX. Officer Commanding cannot be permitted to carry such sentences into execution, within the frontier, on the spot. Convicts must be transmitted to Criminal Judge as herein provided.—*F. U. 7th Nov. 1835, V. M. p. 318.*

Sec. XXXIV. This applies to Prisoners forwarded under this Regulation for disposal and

Civil Court, to a European Civil Officer of the Magistracy, or to a Native Officer of Police under them, the Commanding Officer shall send him, under proper custody, accompanied with a paper in the English language to the European Officers, and a paper in the Native language to the Native Officers, in duplicate, according to the Form J. in the Appendix to this Regulation.

Second.—The Civil Officer to whom the said paper is addressed, shall certify on the back of one of the papers, whether the persons and documents specified in it have been duly received; and the copy so endorsed shall be returned to the person who delivered it; the other paper shall remain with the Civil Officer.

Third.—The Civil Officers shall receive all persons thus sent to them; and shall proceed concerning them according to the general Regulations.

XXXVIII. It shall be competent to the Governor in Council, at any time, by an Order in Council, communicated to the Civil authorities and published in General Orders to the Army, to declare all or any part of this Regulation, which may now specially apply to Commanding Officers at Military Bazaar Stations only, to be applicable to Commanding Officers at any other Military Station, besides Military Bazaar Stations. The limits of such jurisdiction shall, however, previously be defined by the Government, and plans thereof shall be deposited with the Magistrate of the district; and where there may be no Commissariat Officer on the spot, a Military Officer shall be appointed by the Government to take immediate charge of the Police, under this Regulation, subject to the orders of the Officer Commanding the Station, and to exercise all or such part of the

trial. Convicts sent under sentence of Court Martial as prescribed by Article 84, Act XIX. of 1847, must be forwarded as directed in Sec. III. Reg. I. of 1828.

“ FORM J.”

To the _____ of the Zillah of _____

Name, caste, and trade or profession of the person sent.	Name of his native place, and of the Zillah in which it is situated.	Cause for which he is sent.	Hour and date on which he set out.	Names of prosecutors or witnesses accompanying.	List of documents accompanying.

Sec. XXXIV. Cl. 3. Official information of the mode in which each case is disposed of, must be furnished to the Commanding Officer.—C. O. F. U. 9th Aug. 1836.

powers vested by this Regulation in the Officer in immediate charge of the Police, as the Government, in each case, may specifically delegate to him.

XXXIX. *First.*—Whenever it may be necessary to execute, within the limits of a Military Station at which one corps or more may be quartered, process of arrest, issuing from any Civil or Criminal Court (Her Majesty's Supreme Court at Madras only excepted), the Officer charged with the execution of such process of arrest shall carry it to the Commanding Officer, or Senior Officer in the Station, who shall immediately endorse it with his signature, and use his utmost endeavors to cause the person or persons therein named to be discovered; and if within the limits of the Station, to be forthwith arrested and delivered, according to the exigency of the process, to the Civil Officer charged with the execution thereof.

Second.—But nothing contained in the foregoing Clause of this Section, shall be construed to prevent the direct service by the Civil Officers, in the usual way, of notices, summonses, subpoenas, or other process of mere citation, without arrest; or require any communication to the Commanding Officer, or any endorsement by him, on such notice or process not involving personal arrest.

XLIII. Within the limits of all Military Bazaar Stations, and within such further limits around any of them as may be fixed by General Orders of Government, the manufacture and sale of all fermented and spirituous liquors, and of intoxicating drugs shall be under the exclusive control of the Commissary General.

Sec. XLIII. The following Sections of this Regulation, XLIV. to XLVII. prescribe rules for the management of the Abkaree, within Military limits, by the Officer in charge of the Police, but are omitted here as not within the scope of the work.

REGULATION VIII. OF 1832.

A Regulation for rescinding Clause 2nd, Section VII. and Section VIII. Regulation IV. of 1821.

III. *First.*—In the investigation of complaints preferred under the provisions of Sections XXXII. and XXXIII. Regulation IX. of 1816, Magistrates are required to take down in writing the complaint, and so much of the evidence as shall be material, together with the defence of the accused.

Second. The original proceedings, described in Clause 1st of this Section, shall accompany the Calendars prescribed by Clause 1st, Section XL. Regulation IX. of 1816; and the Session Court shall have authority to issue thereupon the orders described in Clause 2nd of that Section.

Reg. VIII. of 1832.—The enactments rescinded by this Regulation relieved Magistrates from the necessity of taking written evidence in the investigation of complaints preferred to them under Sections XXXII. and XXXIII. Reg. IX. of 1816.

REGULATION IX. OF 1832.

A Regulation for the punishment of false accusations, preferred to a Head of District Police, or Police Officer vested with the powers of a Head of District Police.

II. Whenever any charge preferred to a Head of District Police, or Police Officer specially vested with the powers of a Head of District Police, under the provisions of Section III. Regulation IV. of 1821, shall appear to be wilfully false and malicious, the Police Officer shall forward the party, by whom the charge shall have been preferred, to the Criminal Court, and, upon conviction, the Criminal Judge shall sentence him to such period of imprisonment as, on consideration of the apparent motives and tendency of the said charge, shall appear proper, not exceeding six months.

Reg. IX. of 1822, Sec. II.—“*Head of Police*” or “*Ameen of Police*” by Secs. VI. and XIII. of 1832.

For course of procedure under this Regulation, see *C. O. F. U.* 6th Jan. 1834.—Complainants can only be punished—it does not apply to the witnesses supporting the false charge.—*C. O. F. U.*, 28th Dec. 1835,

REGULATION X. of 1832.

A Regulation to enable the Judges and Magistrates, in charge of the Public Jails, to maintain good order and discipline in those Jails, and among the prisoners employed on the public roads, or other public works.

IV. For the purpose of enabling *Judges* and *Magistrates* to maintain good order and discipline among the prisoners confined in the public jails, or other authorized places of confinement, and to enforce a due observance of the prescribed rules for the employment of the prisoners under their charge, they are hereby vested with authority to punish, on summary enquiry, the offences specified in the following Section of this Regulation.

V. *First*.—A contumacious refusal to work, by any prisoner sentenced to hard labor, or, though not so sentenced, who may be subject to labor, under any provisions in the Regulations, or under the discretion declared to be vested in the officers in charge of the public jails by the orders of the Court of Foujdaree Udalut, with respect to prisoners not exempted from labor by the sentence of the Criminal Courts, and not incapable of bodily labor from age, sickness, or other infirmity.

Second.—Wilful neglect and indolence in the performance of any prescribed work, by a prisoner subject to labor, as described in the above Clause, especially after previous admonition.

Third.—Wilful disobedience to any of the written rules for the observance of prisoners, and internal economy of a public jail, which may have been translated in the current language of the country and

Reg. X. of 1832.—Under Act VII. of 1843, the Zillah Jails are placed under the charge of the Subordinate Judge, or where there is no such officer, of the Session Judge. The powers of revision and superintendence formerly vested in Session Judges, have been repealed by Act VIII. of 1856, constituting the office of Inspector of Prisons—which see

suspended on a board, within the jail, for general information, as directed in the jail rules now in force.

Fourth.—Refractory behaviour by prisoners ; such as resistance to the jailor, guards, and other public officers, in the regular discharge of their proper functions ; abusive language to any such officers ; and generally any culpable behaviour to wards them, which may not involve a serious act of criminality, such as should be brought before the Session Court.

Fifth.—Any other instance of disorderly conduct by a prisoner ; such as riot, insurrection, attempt to escape, taking off, or loosening, or attempting to loosen, by filing, cutting, or otherwise his own irons, or those of other prisoners, with a view to escape ; conspiring with other prisoners for the purpose of insurrection or escape, or for any other criminal purpose ; abusing or assaulting another prisoner ; and generally any misconduct, committed by a prisoner, whilst in custody, which, under the Regulations in force, may not be properly cognizable by the Session Court.

VI. *First.*—The powers vested in Judges, and Magistrates, for the punishment of the offences specified in the preceding Section, which, on a summary enquiry, may appear to have been committed by any of the prisoners under their charge, are declared to be as follows.

Second.—In cases of contumacious refusal to work, or of wilful neglect and indolence in the performance of any prescribed work, within the 1st or 2nd Clause of Section V. of this Regulation, the Judge, or Magistrate, may cause the prisoner to be punished by stripes, not exceeding 60 with a cat of-nine tails, and in the instance of a prisoner's pertinaciously refusing to work, may likewise order his diet allowance to be reduced, in such degree as may be consistent with his support, until he shall perform the work required from him.

Third.—The offences specified in the 3rd, 4th, and 5th Clauses of the preceding Section, shall be punishable, according to the nature and circumstances of the case, by stripes with a cat-of-nine tails not exceeding 150 ; or by close, and as far as practicable, by solitary confinement.

VII. It shall not be necessary to make a detailed record of the evidence, or of any part of the proceedings, held in the summary enquiries authorized by this Regulation, nor shall it be requisite to examine witnesses upon oath, except in cases of a serious nature, involving offences specifically provided for by the general rules in force for the administration of Criminal Justice. But a record shall be kept of every summary conviction, and punishment; stating the name of the prisoner, the offence charged against him, the substance of the evidence and conviction, or the personal view of the Judge, or Magistrate, when the facts of the case may have taken place within his view, and the punishment ordered; with the date of the order, to be signed by the public officer, by whom it may be passed.

REGULATION XIII. OF 1832.

A Regulation, to provide for the more effectual administration of Criminal Justice in certain cases.

IV. *First*.—It shall be competent to the Magistrate, or Criminal Judge, to adjudge at their discretion, solitary imprisonment, in all cases cognizable by those Officers respectively.

Second.—Solitary imprisonment shall be enforced by confining the prisoner in a room well ventilated, where no communication can be had with any person whatever ; which room shall be opened only in order to clean it, and supply the prisoner with food. Provided however, that when the Medical Officer shall consider the removal of such prisoner to the Hospital to be requisite, on account of his health, he shall be so removed for the necessary period.

V. *First*—In modification of the provisions of Clause 1st, Section IV. Regulation IV. of 1821, it is hereby enacted that in the cases therein specified, Heads of District Police shall have authority to pass sentence of imprisonment not exceeding ten days with labor, but not to inflict stripes.

Second.—In modification of Clause 1st, Section V. Regulation IV. of 1821, it is hereby provided that in the cases therein described, Heads of District Police shall have authority to commute the fine to imprisonment, not exceeding three days without labor.

VI. The provisions of Section II. Regulation IX. of 1832, shall be applicable to false charges, preferred to Ameens of Police appointed under the provisions of Section XL. Regulation XI. of 1816.

VII. The Session and Criminal Judges, are empowered to impose a fine not exceeding fifty Rupees, commutable, if not paid, to imprisonment not exceeding one month, for gross prevarication, or for other contempt of Court, in open Court ; provided however, that all sentences passed under this Section by the Session Courts, shall be

Sec. IV. Cl. 1. — "*Criminal Judge*" here, as elsewhere, used to designate the officer presiding in the Subordinate Criminal Court, whether Subordinate Judge or Principal Sudder Amcen.

noticed in the remarks, in the Calendar, and that those passed by Criminal Courts shall be entered in their periodical reports.

VIII. *First.*—Any person or persons convicted before the Criminal Judge of poisoning or maliciously killing, maiming or wounding one or more Horses, Asses, Cows, Oxen, Buffaloes, or other cattle, shall be punishable with imprisonment, not exceeding two years.

Second.—Petty cases of the description specified in Clause 1st of this Section, shall be punishable by the Magistrate and the Heads of District Police, by imprisonment, to the extent specified in Section XXXIII. Regulation IX. of 1816, and Section V. of this Regulation.

IX. Any person or persons charged with melting or disguising the appearance of ornaments or other articles formed of the precious metals, or jewels, with a fraudulent intent, and any person or persons charged with purchasing, receiving or altering, the appearance of a stolen property, offered under suspicious circumstances without giving information to the Head of the village, or other Police Officer, shall, on conviction, before the Criminal Judge, be punishable by imprisonment, not exceeding two years.

X. The power vested in the Session Courts by the provisions of Section XXIII. Regulation IX. of 1816, of rewarding meritorious service rendered by Police Officers or others, in the apprehension of public offenders, is hereby extended to the Magistrates and Criminal Judges.

XI. *First.*—In modification of the provisions of Section VIII. Regulation X. of 1816, it is hereby declared that the Criminal Judge, shall have primary cognizance of cases of gross and culpable neglect, on the part of Peons in charge of prisoners, whereby they may be enabled to effect their escape; and on conviction, may sentence the offenders to imprisonment not exceeding six months.

Second.—Where connivance on the part of such Peons may be ascertained, they shall be committed for trial before the Session Court, and on conviction, be sentenced to imprisonment for not less than two, nor more than five years.

XII. In modification of the provisions of Section XX. Regulation VIII. of 1802, it is hereby enacted, that the Court of Foujdaree Udalut, shall have authority to sanction the offer of a conditional pardon, without reference to the Governor in Council.

REGULATION XIV. OF 1832.

A Regulation for extending such part of the provisions of Section LXVII. of the Act 4, George IV. Cap. 81, as relates to the penalties prescribed for purchasing Clothes and other necessaries from Soldiers, throughout the provinces, subordinate to the Presidency of Fort Saint George.

II. *First.*—Any person who shall knowingly detain, buy, or exchange, or otherwise receive from any Soldier or Deserter, Native as well as European, or any other person, upon any account or pretence whatsoever, any Arms, Clothes, Caps, or other furniture, belonging to the East India Company, or furnished and provided for the use of any Troops or Forces, Native as well as European, serving with the Forces of the said Company, or any meat, drink, beer, or other provision, provided under any Regulations relating thereto, or any such articles, belonging to any such Soldier or Deserter, as are generally deemed Regimental necessaries, according to the custom of the Army, being provided for the Soldier, and paid for by deductions out of his pay, or shall cause the colour of any such clothes to be changed, shall, on conviction before the *Criminal Judge*, within the limits of whose local jurisdiction the offence may have been committed, be sentenced for every such offence, to pay a fine of forty Rupees.

Second.—Any person, who shall buy or receive any gram, hay, straw, or other forage, provided for the use of any horse, or horses, belonging to the Company's Service, from any Trooper, or other Sol-

Reg. XIV. of 1832.—Sec. LXVII. Act. 4, Geo. IV.—This Act has been superseded by 3 and 4, Vic. Cap. 37, in the 36th Section of which is an enactment corresponding with the Section here cited.

Sec. II. Cl. 1.—“Criminal Judge,” i. e., Subordinate Judge or Principal Sudder Ameen.

dier, Native as well as European, knowing him to be such, or shall move, procure, counsel, or solicit any such Trooper or other Soldier, knowing him to be such, to sell or otherwise dispose of any such gram, hay, straw, or other forage, as aforesaid, shall, on conviction before the *Criminal Judge*, within the limits of whose local jurisdiction the offence may have been committed, be sentenced, for every such offence, to pay a fine of forty Rupees.

Third.—Upon payment of the fines adjudicable under the provisions of Clauses 1st and 2nd of this Section, one moiety thereof shall be given to the informer; and the said fines shall be commutable, if not paid, to imprisonment for three months.

REGULATION I. OF 1833.

A Regulation for extending the provisions contained in Regulation X. of 1832 to Officers other than those therein specified, who may be placed in charge of Convicts; and for restricting the powers of punishment to be exercised by such Officers, according to the pleasure of the Right Honorable the Governor in Council.

II. *First.*—It shall be competent to the Governor in Council, by an order in Council, to confer upon Officers, other than those named in Regulation X. of 1832, who may be placed in charge of convicts, the whole, or any part of the powers of punishment, created by that Regulation.

Second.—The Governor in Council will, at pleasure, restrict the nature and the degree of punishment adjudicable by the Officers mentioned in Clause 1st of this Section, within such limits, as may be deemed proper and expedient.

III. In cases of a serious nature, involving offences specifically provided for by the general rules in force for the administration of Criminal Justice, the offenders shall be made over to the Judicial Officer, from whose Jail they may have been transferred, to be dealt with according to Law; and their offences shall be cognizable in the same manner, as if committed within the local Jurisdiction of such Criminal Court. Provided however, that in extraordinary cases, when it may happen that the Criminal Court, from which the convicts were originally removed, is so distant as to make this arrangement inconvenient, it shall be competent to the Governor in Council to direct, that such offenders shall be made over to the nearest Criminal Court, who shall thereupon be empowered to deal with them, as with other offenders, under the provisions of the general Regulations.

IV. The provisions of Section VII. Regulation X. of 1832, shall be applicable to the Officers, specially vested with powers of punishment under the provisions of Section II. of this Regulation.

Sec. IV. "Provisions of Sec. VII., &c.—As to taking of evidence, &c.

REGULATION II. OF 1833.

A Regulation for exempting Females from Corporal punishment by stripes.

II. No Female shall hereafter be sentenced to Corporal punishment, by stripes, by the Magistrates and their Assistants, by any of the Courts of Criminal Justice, or by any other authority, to whom the power of adjudicating that punishment may be given by any Regulation enacted by this Government.

REGULATION III. OF 1833.

A Regulation for conferring upon Sudder Ameens Jurisdiction in Criminal cases.

II. *First.*—The Criminal Judges are hereby authorized to employ the Sudder Ameens in the investigation and decision of Criminal cases. In the investigation and determination of such cases, they shall be guided by the rules laid down for the observance of Criminal Judges in similar cases, and shall exercise the powers conferred upon those officers by the Regulations: provided that cases, committable for trial before the Session Court, shall not be cognizable by Sudder Ameens: provided also, that they shall not have Jurisdiction in cases where an American or European is concerned, nor over the offences specified in Regulation III. of 1819.

Second.—Previous to the execution of the duties of their office, Sudder Ameens shall make and subscribe before the officer presiding in the Criminal Courts, to which they are attached, a solemn declaration according to the form prescribed in the Appendix to this Regulation.

VI. Whenever a Sudder Ameen may be guilty of any gross act of misconduct, *the Zillah Judges under Section XVI. Act No. VIII. of 1843*—are authorized to suspend him from his office, but they shall report the circumstances of the case without delay, to the Court of *Fowdaree Udalut*, for final determination.

Sec. II. Cl. 1.—This originally contained provisions for the revision of their sentences—which is now done under Sec. XXXVI. Act VII. of 1843, and therefore omitted here.

Cl. 2. *Form prescribed.*—The same, *mutatis mutandis*, as in Sec. II. Reg. X. of 1816.

Sec. VI. Modified as in italics by Sec. XVII. Act VII. of 1843.

REGULATION I. OF 1834.

A Regulation for the punishment of persons convicted of Treason or Rebellion.

II. It is hereby declared that all persons who may be convicted of Treason or Rebellion, either by the ordinary Courts of Judicature, or before a Special Commission appointed under Act V. of 1841, shall be liable to a sentence of death.

III. Nothing however, in this Regulation, is meant to restrict the Foujdaree Udaltut from passing such other mitigated Sentence as may appear to them necessary and just: provided always that no Sentence passed under this Regulation shall be carried into effect without previous sanction of the Governor in Council, as prescribed in Section V. Act V. of 1841.

ACT No. XVIII. OF 1835.

I. No person shall wear, or be accessory to the wearing by any other person, of any Chuprass or Badge, intended to resemble any Chuprass or Badge worn by Servants of the Government; and every person violating this rule, shall be punishable by fine and imprisonment, on conviction, before a Magistrate, as for a misdemeanor.

II. Every Chuprass or Badge worn by any person not being a Servant of the Government, shall bear the name of the party by whom the wearer is employed: and whoever shall wear a Chuprass or Badge, or be accessory to the wearing such Chuprass or Badge otherwise than in conformity to this rule, shall be punishable by fine and imprisonment, on conviction, before a Magistrate as for a misdemeanor.

ACT No. XXIV. OF 1836.

I. The Officers who in the Regulations of the Presidency of Fort Saint George are designated as Native Judges, and Native Criminal Judges, shall be designated as Principal Sudder Ameens.

III. No person whatever shall by reason of place of birth, or by reason of descent be incapable of being a Principal Sudder Ameen, Sudder Ameen, or Moonsiff, within the Territories subject to the Presidencies of Fort Saint George and of Bombay.

IV. Every British born subject of the Queen, or descendant of

Act No. XVIII. of 1835.—The Governor in Council conceives that the spirit of Act XVIII. of 1835, prohibits the use by private individuals of badges resembling, or liable to be mistaken for, those worn by the servants of Government; and being of opinion that any badge worn in the same manner as those of the Government, namely, on a belt over the shoulder, is, and must be liable to be so mistaken, must decline to sanction the use, by private individuals, of badges so worn; no inconvenience can, he would observe, be occasioned by this prohibition, as such badge, as the law allows, can be worn, in some other and unobjectionable manner.—*En. Min. Cons. 14th Dec. 1841.*

such British born subject who shall be appointed a Principal Sudder Ameen, Sudder Ameen, or Moonsiff, in the Territories subject to the Presidency of Fort Saint George, or of Bombay, shall in respect of all Acts done by him as such Principal Sudder Ameen, Sudder Ameen, or Moonsiff, be liable to the same proceedings, as well Criminal as Civil, and shall be amenable to the Jurisdiction of the same tribunals, as if he were not of British birth or descent.

ACT No. XXVI. of 1836.

I. As often as the Governor General of India, or the Commander-in-Chief of all the forces in India, or the Lieutenant Governor of the N. W. P. shall pass through any part of the Territories of the East India Company attended by a Camp, it shall be lawful for the Governor General of India in Council, by an order in Council, to appoint a Superintendent of the Police of such Camp.

II. With respect to all offences committed in any such Camp, or on the line of march between the Station of any such Camp, such Superintendent shall have concurrent Criminal Jurisdiction with the Magistrate of the Zillah or City within which such offence shall have been committed.

III. As often as the said Superintendent shall, by virtue of the powers conferred on him by the preceding Clause, commit any person for trial before the Sessions Court, or sentence any person to imprisonment, it shall be lawful for the said Superintendent to transmit such person to the Magistrate of the Zillah or City where the Camp shall then be, with a copy of the commitment or sentence, under the hand of him, the said Superintendent, and the said Magistrate shall give effect to such commitment or sentence.

IV. All officers subordinate to the Magistrate of the Zillah or City where such Camp shall be, shall be assisting to the said Superintendent in the exercise of the powers conferred on him by this Act, in the same manner as they are bound to be assisting to the said Magistrate.

ACT No. XXX. OF 1836.

I. Whoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of Thugs, either within or without the Territories of the East India Company, shall be punished with imprisonment for life with hard labor.

II. Every person accused of the offence made punishable by this Act, may be tried by any Court which would have been competent to try him if his offence had been committed within the Zillah where that Court sits, any thing to the contrary in any Regulation contained notwithstanding.

III. No Court shall, on a trial of any person accused of the offence made punishable by this Act, require any Futwah from any Law Officer.

ACT No. XVIII. OF 1837.

Any person charged with murder by Thuggee, or with the offence of having belonged to a gang of Thugs, made punishable by Act No. XXX. of 1836, may be committed by any Magistrate or Joint Magistrate within the Territories of the East India Company, for trial before any Criminal Court competent to try such person on such charge.

ACT No. XIX. OF 1837.

No person shall, by reason of conviction for any offence whatever, be incompetent to be a witness in any stage, of any cause, Civil or Criminal, before any Court in the Territories of the East India Company.

Act No. XXX. of 1836.—See Acts XVIII. of 1837—XVIII. of 1839—XXIV. of 1843—X. of 1847—and III. of 1848.

Act No. XIX. of 1837.—Who *only* are incompetent witnesses will be found in Sec. XIV. Act II. of 1855.

ACT No. XXI. OF 1837.

I. It shall be lawful for the Governor in Council of any Presidency of which there is a Council, and for the Governor of any Presidency of which there is no Council, to dispense with any oath which by any Regulation of that Presidency, or by any Act of the Governor General of India in Council, is now required to be taken, and it shall be lawful for the Lieutenant Governor of the N. W. Provinces, to dispense with any oath which by any Regulation, or any Act of the Governor General of India in Council now in force within those Provinces, is now required to be taken.

II. Provided always that the dispensing power given by this Act shall not extend to any oath now required by law to be taken in any stage of any judicial proceeding.

III. Whenever any oath is dispensed with under the authority given by this Act, the person who but for such dispensation would have been legally required to take such oath, shall, in the presence of the functionary by whom, but for such dispensation such oath would have been administered, make and subscribe a declaration in writing to the same effect with such oath.

IV. Whoever shall in any declaration made and subscribed according to the Provisions of this Act, knowingly state any untruth such that if that untruth had been stated on oath, the person stating it would have been guilty of perjury, shall be punished with imprisonment for a term not exceeding one year, or fine, or both.

ACT No. XXII. OF 1837.

I. Neither the Criminal Judge, nor the Magistrate of the Zillah of Chingleput, shall have any Jurisdiction in respect of offences committed within the Collectorate of Madras against any Regulation relating to the public revenue.

Soc. I. "*Oath*"—All Oaths were dispensed with on the part of Mahomedans and Hindoos, by Act V. of 1840—where however it does not extend to any declaration required under this Act i. e. "*Declarations*" are still to be made in the cases therein referred to—not "*solemn affirmations*."

II. The whole jurisdiction now belonging to the said Criminal Judge, and also the whole jurisdiction now belonging to the said Magistrate in respect of such offences, shall belong to the Superintendent of Police of the town of Madras, and to every one of the Deputies of the said Superintendent, and shall be exercised by the said Superintendent and by every one of the said Deputies, according to the rules by which the said Criminal Judge, and the said Magistrate, are now bound to exercise the same.

III. Provided always, that in the exercise of this jurisdiction, the said Superintendent of Police, and the said Deputies, shall not be subject to the orders of the Session Court of the Zillah of Chingleput, nor be bound, by any rule in the Madras Code of Regulations, to furnish any Calendar List, or Report to that Court; but shall be immediately subject to the orders of the Court of Foujdaree Udalt; and shall furnish to the Court of Foujdaree Udalt, such List or Calendars of charges preferred before them, or of persons sentenced to punishment by them, as the Court of Foujdaree Udalt may direct.

IV. Provided also, that it shall be lawful for the said Superintendent, and every one of the said Deputies, in cases, in which the said Criminal Judge, or the said Magistrate, would now be empowered to commit any person to the Jail of Chingleput, to commit such person to any Jail within the Collectorate of Madras.

V. Provided also, that the provisions of Clause V. Section VIII. Regulation XV. of 1803, of the Madras Code, shall be applicable to all convicts on whom sentence of imprisonment shall have been passed by the said Superintendent of Police, or by any of the said Deputies in the exercise of the jurisdiction transferred to them by this Act.

ACT No. XXIII. of 1837.

It shall be competent to the Governor in Council of Fort Saint George, by an order in Council, to invest Principal Sudder Ameen

Act No. XXIII. of 1837.—Prior to this enactment a Principal Sudder Ameen could commit cases of perjury falling under his own view, under Sec. V. Reg. II. of 1831.—By this, and indeed under the general authority given to him by Act VII. of 1843, he can commit in any case where a Subordinate Judge can, unless the accused be a European or American.

with the same powers of commitment in cases of perjury, as are exercised by Subordinate Judges under Section III. Regulation VIII. of 1829, of the Madras Code.

ACT No. XXX. OF 1837.

All Ameens of Police who have been, or may be, appointed according to Section XL. Regulation XI. of 1816, of the Madras Code, to act with the police powers vested in Tahsildars by that Regulation shall possess all police powers and criminal judicial powers which are vested in Tahsildars within the Territories subject to the Presidency of Fort Saint George, by any Law or Regulation whatever, and shall be subject to all provisions to which, by any Law or Regulation, Tahsildars are subject, in respect of any of those powers.

ACT No. XXXIII. OF 1837.

I. The provisions of Clauses 2nd and 3rd, Section IV. Regulation IV. of 1821, of the Madras Code, shall apply to all petty offences cognizable by heads of District Police, as well as to petty thefts.

II. Whenever any head of District Police shall, under those provisions, report any case whatever to a Magistrate for final orders, such head of District Police shall state precisely in his report the description and extent of the punishment which in his opinion is proper to be inflicted in that case ; and the said Magistrate, if he give orders at variance in any respect with that opinion, shall record his reasons for varying from it.

ACT No. XXXIV. OF 1837.

I. It shall be lawful, for Magistrates, under the Government of the Presidency of Fort St. George, to send persons for trial, committal, or confinement, to Principal Sudder Ameens, any provision of any Regulation to the contrary notwithstanding.

II. Provided always, that it shall not be lawful to send any European or American, for such purpose, to a Principal Sudder Ameen ; but that Magistrates shall send Europeans and Americans for trial, committal, or confinement, to the Subordinate Criminal

Judges, as heretofore ; *or, where the Criminal Court is presided over by a Principal Sudder Ameen, to the Session Judge.*

ACT No. XXXVI. OF 1837.

I. The jurisdiction vested in Collectors, Subordinate Collectors, and Assistant Collectors, by Regulation IX. of 1822, and VII. of 1828, of the Madras Code, in cases of embezzlement of public money, and of the falsification, destruction, or concealment of any public account, record, voucher, or document, relating to public money, shall extend to cases of the embezzlement of any public property, or the falsification, destruction, or concealment of any public account, record, voucher, or document, relating to any public property, by any person of the classes described in the 3rd Clause of Section II. of the said Regulation IX. of 1822.

II. All provisions of either of the said Regulations IX. of 1822, and VII. of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of any public property whatever, by persons of any of the classes described in the 3rd Clause of Section II. of the said Regulation IX. of 1822 ; and all provisions of either of those Regulations, which apply to cases of the falsification, destruction, or concealment of any public account, record, voucher, or document relating to public money, shall apply to cases of the falsification, destruction, or concealment of any public account, record, voucher, or document, relating to any public property whatever, by persons of any of the said classes.

ACT No. II. OF 1839.

I. In all cases of fines by which offenders are or may be punishable by any Magistrate, according to the provisions of any Act heretofore passed, or which shall hereafter be passed by the Governor General of India in Council, it shall be lawful, in cases of non-payment, if no

other means for enforcing the payment are or shall be provided by such Act or otherwise, for the Magistrate, by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such Magistrate, and if no such property shall be found within such jurisdiction, then it shall be lawful for every such Magistrate by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four calendar months, where the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid, upon payment of the amount.

II. In all cases in which offenders are or may be punishable by any Magistrate with fine or imprisonment, or both, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor General of India in Council, and where the extreme amount of the fine or imprisonment is not specified, it shall not be lawful for the Magistrate to impose any fine exceeding 200 Rupees, or to imprison the offender for any term exceeding six months.

III. In all cases in which offenders are or may be punishable by fine before a Magistrate, according to the provisions of any Act heretofore passed or which hereafter shall be passed by the Governor General of India in Council, it shall be lawful for the Magistrate, and he is hereby required to receive proof of the commission of the offence upon oath, or upon solemn affirmation in cases where a solemn affirmation is receivable by law instead of an oath.

IV. In this Act and in all Acts, heretofore passed by the Governor General of India in Council, the terms, "fine" and "fines" shall extend to all "penalties" and "forfeitures," and the term "Magistrate" shall extend to all "Joint Magistrates;" "persons lawfully exercising the powers of a Magistrate," and "Justices of the Peace."

ACT No. XIV. OF 1839.

II. Every person who shall make with any Native of India any contract for labor to be performed in any British or Foreign Colony without the territories of the East India Company, or who shall knowingly abet or aid any Native of India in emigrating from the said territories for the purpose of being employed as a laborer, shall be liable, on conviction before a Magistrate, or Justice of the Peace, to a fine not exceeding 200 Rupees for every Native so contracted with, aided, or abetted; and in default of payment of such fine, shall be liable to be imprisoned for a term not exceeding 3 months.

III. Provided always that nothing in this Act contained shall be taken to apply to any Native Seaman who shall of his own free will contract to navigate any vessel, or who shall embark on board such vessel in pursuance of such contract, or to any person who shall contract to serve as a menial servant only, or who shall embark as such menial servant.

Act No. XIV. of 1839.—This is the oldest enactment now in the Code relative to Emigration—which it entirely prohibited. The restriction was removed so far as it affected Emigrants proceeding from the Ports of Calcutta, Madras; or Bombay,

To the Mauritius, by Act No. XV. of 1842.

To Jamaica, British Guiana, and Trinidad, by Act No. XXI. of 1844.

To St. Lucia and Grenada, by Act No. XXXI. of 1855—and also as it operated to prevent the Emigration of laborers to Ceylon, by Act No. XIII. of 1847.

Emigration to the Mauritius, was subsequently restricted to the Port of Calcutta, by Act No. XXIII. of 1843, but *again* allowed from Madras, by Act No. VIII. of 1847, and from Bombay, by Sec. IV. Act No. IV. of 1852.

To Jamaica, British Guiana, and Trinidad, Ships carrying Emigrant laborers, are prohibited by Act No. XXV. of 1845, from sailing from Madras except between the 31st day of August and the 1st of March next thereafter ensuing. A similar provision was made regarding those leaving Calcutta for the same Ports, by Sec. II. Act No. IV. of 1852, and for St. Lucia, and Grenada, by Sec. VIII. Act No. XXXI. of 1855.

Sec. II. Act No. XXIV. of 1852, in explanation of Act No. XIV. of 1839, defines Emigration to be “the departure of any person out of the territories under the Government of the East India Company”—and provides penalties for the offence of “CRIMPING” or illegally inducing such departure.

By Act No. XIX. of 1856.—The Governor General in Council is empowered, in certain cases, to prohibit or suspend by notification, the Emigration of Native laborers to any Colony to which it is otherwise allowed by law.

The above enactments contain the whole body of law relating to Emigration—it does not seem necessary to insert them at length in this work—with the exception of Act No. XIV. of 1839, on which the others depend and Act No. XXIV. of 1852, as being of a more general and penal nature,

ACT No. XVIII. OF 1839.

Any person accused of the offence of murder by Thuggee, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by Thuggee, may be tried by any Court which would have been competent to try him if his offence had been committed within the Zillah where that Court sits, any thing contained in any Regulation or Regulations to the contrary notwithstanding.

ACT No. XXIV. OF 1839.

An Act for the Administration of Justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.

II. From and after the 1st day of December 1839, the operation of the Rules for the Administration of Civil and Criminal Justice as well as those for the collection of the Revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the Districts of Ganjam and Vizagapatam.

IN THE DISTRICT OF GANJAM. IN THE DISTRICT OF VIZAGAPATAM.
Zemindaries. *Ancient Zemindaries.*

Pauloor.

Vazeanaghur.

Hoomanah.

Bobelly.

Becridee.

HILL ZEMINDARIES.

Kullicottah.

Jayapoor.

Pratapagery.

Coorpam.

Mohery.

Sungumirulsah.

Vizcyanagur.

Chamadoo.

Hautghur.

Pancheptah.

Bramnorchee.

Audra.

Chegatee.

Saroapully Bhomararum.

Mundasa.

Saloor.

Act No. XVIII. of 1839.—The provisions of this enactment are extended to cases of "Dacoity," by Act No. XXIV. of 1843.

IN THE DISTRICT OF GANJAM. IN THE DISTRICT OF VIZAGAPATAM.

Zemindaries.

Soorunghi.
Jaradah.
Jauluntra.
Boodarasinghy.
Dharacotah.
Badagodah.
Sareghur.
Turlah.
Purlah Khimedy.

AUMANY ESTATES.

Goomsur.
Sooradah.
Askah.
Pornary.
Coorlaw.

Ancient Zemindaries.

Mandoogole.
Belgam.
Maringhy.
UNDER AUMANY.
Paleondah.
Golcondah.

III. The administration of Civil and Criminal Justice, (including the superintendence of the police) and the collector and superintendence of the revenues of every description, within the tracts of country specified in the foregoing Section which are now included in the District of Ganjam, shall be vested in the Collectorate of Ganjam, and within those which are now included in the District of Vizagapatam, in the Collectorate of Vizagapatam, and shall be exercised by them respectively as Agents to the Governor of Fort St. George.

IV. It shall be competent to the Governor in Council of Fort Saint George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of such Agents and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in Civil Suits shall be final, and in what Suits an Appeal shall lie to the Sudder Udalut, and to define the authority to be exercised by the Agents in Criminal trials, and what cases he shall submit for the decision of the Foujdaree Udalut.

V. Upon the receipt of any Criminal trials referred by either of the Agents under the rules which may be hereafter prescribed by the Governor in Council, the Foujdaree Udalut shall proceed to

pass a final judgment, or such other order as may after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Session Judge.

VI. Upon the receipt of any Appeal from a Decree of either of the Agents under the rules to be prescribed as aforesaid, the Court of Sudder Udalt shall proceed to try and determine it in the same manner as Appeals from the Civil Courts.

VII. Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the Governor of Fort Saint George in Council, by virtue of Regulation II. of 1819 of the Madras Code, provided that the 3rd 4th, 5th, 6th and 7th Sections of that Regulation shall remain in force and be applicable to commitments under this Act. Provided also, that in every case in which either of such Agents shall make any such commitment, he shall transmit immediately a report to the Governor in Council of Fort Saint George for his orders.

VIII. It shall be competent to the Governor in Council of Fort Saint George, by an order in Council, to make from time to time, with the previous sanction of the Governor General of India in Council, such alterations in the limits of the tracts within the aforesaid Districts placed under the jurisdiction of the said Agents respectively, as he may deem expedient.

SUPPLEMENTARY RULES.

CRIMINAL JUSTICE.

Rule I. *Clause 1st.*—In the administration of Criminal Justice, the Governor's Agent shall exercise the powers of Magistrate, Subordinate and Session Judge respectively, according to the Madras Code of Regulations, and the Acts of the Supreme Government, applicable to that Presidency; subject to the modifications hereunder specified.

Supplementary Rules.—Under Sec. IV. of this enactment, the Governor in Council has framed these Rules, for the guidance of the Agents in Ganjam and Vizagapatam respectively, in the administration of criminal justice.

Clause 2nd.—In cases in which, according to the said Code and Acts, the Magistrate, or Subordinate Judge, is competent to pass sentence, the Agent may pass sentence, to the extent prescribed by the said Code and Acts, without reference to any authority; subject, however, to the ultimate revision of his proceedings, in such cases, by the Foujdaree Udalut as hereinafter provided.

Clause 3rd.—The Agent shall not be required to take a Futwah. But where the crime is not punishable under the said Code or Acts, he shall be guided, in the punishment thereof, by the Mahomedan law, as explained by the Court of Foujdaree Udalut, to whom, on this point, he is to refer, by letter, for instructions.

Clause 4th.—In cases in which, according to the said Code and Acts, the crimes are punishable by no authority inferior to the Zillah Court of Session, if the Agent acquit the prisoner, he shall release the accused immediately, unless he deem it necessary to hold him to security. But if he convict, he shall proceed as provided in the two following Clauses.

Clause 5th.—If the offence, according to the said Code and Acts, is such as would render the trial not referrible by a Sessions Judge to the Court of Foujdaree Udalut, the Agent, shall, by letter, submit to the Court of Foujdaree Udalut, a summary of the evidence, a statement of the grounds for the conviction, and his opinion as to the punishment to be passed on each prisoner respectively; and the Court of Foujdaree Udalut shall be competent to confirm, modify, or annul, such proposed sentence, calling for the proceedings, or otherwise, as may be found necessary. In such cases, the Agent shall pass no sentence, until the orders of that Court are received; and shall then pass sentence in strict conformity with their instructions.

Clause 6th.—If, according to the said Code and Acts, the offence is such as would render the trial referrible by a Session Judge to the Court of Foujdaree Udalut, the Agent shall proceed as a Session Judge is thereby directed, in order that the Foujdaree Udalut may dispose of the trial under Section V. Act No. XXIV. of 1839.

Clause 7th. In the trial of all such offences as are punishable under the said Code and Acts, by no authority inferior to the Zillah

Courts of Session, the Agent is empowered, if he see fit, to call in the aid of one or more Native Assessors.

Rule II. In trials held before the Agent, or his Subordinates, the proceedings shall be conducted in such manner as the Foujdaree Udalut may prescribe.

Rule III. The Agent shall be competent to delegate to any of his Assistants, the whole, or any part, of the powers of Magistrate, and Subordinate Judge respectively, as defined in the Madras Code, and in the Acts applicable to that Presidency, which they shall be competent to exercise, within such part of his jurisdiction as he may appoint; subject in all cases to the control of the Agent, who, with or without complaint, may, at his discretion, confirm, modify, or annul their sentences; liable, however, to the established periodical revision of his and their proceedings, by the Foujdaree Udalut, as hereinafter provided.

Rule IV. Tahsildars, ex-officio, and such other persons as the Agent may appoint, shall be competent to exercise under the special control of the Agent, and his Assistants, the same police powers, and judicial authority, as are vested in Tahsildars, or their Subordinates, under the said Code and Acts; and in the exercise of their duties as Police officers, they shall conform to the Rules therein contained.

Rule V. In petty offences, such as abusive language, slight trespass, and inconsiderable assaults, the Agent and his Assistants are authorized, at their discretion, to refer such charges for investigation by a Panchayet, so far only as regards the guilt or innocence, of the accused and the crime of which they are guilty. In cases of conviction, by the verdict of the Panchayet, the punishment to which the offender may be liable, under the said Code and Acts, or the Mahomedan law, shall be awarded against him by the officer making such reference.

Rule VI. The Court of Foujdaree Udalut shall prescribe the forms and fix the periods, for the transmission of such reports, calendars, or other statements, as they may deem necessary to be made by the Agent, as regards the Criminal proceedings held by himself, and his subordinates; and he shall comply therewith. But the Court of Foujdaree Udalut shall restrict their number and extent,

as much as may be consistent with a general but efficient supervision. All orders passed on these returns by the Court of Foujdaree Udalt, shall be carried into effect by the Agent.

ACT No. I. OF 1840.

An act for regulating the Procedure on trials, referred to the Court of Foujdaree Udalt at Madras.

I. Whereas the dispensing with a Futwah, in cases referred to the Court of Foujdaree Udalt at Madras, will be attended with great convenience and the Futwah may be dispensed with in that Court, without altering or impairing the authority of the Mahomedan Law. It is, therefore, hereby enacted, that in trials referred to the said Court of Foujdaree Udalt at Madras, that Court shall not be required to take a Futwah from their Law Officers. Provided always, that nothing in this Act contained shall authorize the said Court to dispense with the Mahomedan Law in any case, which, before the passing of this Act, would have been determinable according to that Law by the said Court.

ACT No. II. OF 1840.

An Act for regulating the execution of sentences of Imprisonment passed by Courts Martial in certain cases.

I. It is hereby declared and enacted, that whenever under Act No. XXIII. of 1839, any sentence of a Court Martial shall adjudge imprisonment, or imprisonment with labor, for any offence, it shall be the duty of every Judge, Magistrate, Sheriff or other Officer in charge of any Gaol, to give effect to such sentence on the offender

Act No. II. of 1840.—Camp followers of all descriptions were declared amenable to this Act, by Acts Nos. XXVIII. of 1841—and XII. of 1842.

Sec. I. Act No. XXIII. of 1839.—Authorizes sentence of imprisonment by Court Martial with or without labor, in addition to dismissal from service—See also Articles of War, Act No. XIX. of 1847.

being delivered into his custody, and on being furnished with a copy of the sentence by the Officer Commanding the Division, Garrison, Regiment, or Detachment, as the case may be, to which the offender belongs.

ACT No. V. OF 1840.

An Act concerning the Oaths and Declarations of Hindoos and Mahomedans.

I. Whereas obstruction to justice, and other inconveniences, have arisen in consequence of persons of the Hindoo or Mahomedan persuasion being compelled to swear by the water of the Ganges, or upon the Koran, or according to other forms which are repugnant to their consciences or feelings.

It is hereby enacted, that except as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the classes aforesaid, within the territories of the East India Company, shall make affirmation to the following effect.

“ I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth.”

II. If any person making such affirmation as aforesaid, shall wilfully and falsely state any matter or thing, which if the same had been sworn before the passing of this Act, would have amounted to perjury, every such offender shall be subject in all Courts to the same punishment to which persons convicted of perjury were subject before the passing of this Act.

III. Any person causing or procuring another to commit the offence defined in the second Section of this Act, shall be subject in all

Act No. V. of 1840.—This Act does not in effect dispense with Oaths—but only with all forms or ceremonies as accompaniments thereof—an oath is an appeal to God, to witness what we say, and either directly, or by implication, invoking his vengeance if what we say be false—thus Grotius, *forma iurandi verbis differt, reconvenit; hunc enim sensum habere debet, ut Deus invocetur*—Lib: II. Cap. III. Sec. 10.

Sec. IV.—“ *H. M. Courts.*” By Act No. II. of 1847, it is explained that this expression does not include the Courts of Justices of the Peace.

Courts to the same punishment to which persons convicted of subornation of perjury were subject before the passing of this Act.

IV. This Act shall not extend to any declaration made under the authority of Act No. XXI. of 1837, nor to any declaration or affirmation made in any of Her Majesty's Courts of Justice.

ACT No. XVII. OF 1840.

An Act for amending Regulation V. of 1831, of the Madras Code as far as the same regards penalties for certain breaches of the Salt Laws.

In modification of Regulation V. of 1831, of the Madras Code, all penalties prescribed by the Madras Code for any breaches of the Salt Laws, shall be recoverable before the Magistrate of the District: Provided always, that it shall be lawful for any such Magistrate before whom any person shall be charged with the commission of any offence against the Salt Laws, at his discretion, to proceed against such person in the same manner as against persons charged with offences, the punishment of which rests with the Criminal Court. Provided also, that no Magistrate shall, under the authority of this Act punish any offender by a fine exceeding 50 Rupees; or by imprisonment with or without labour for a longer period than 30 days.

ACT No. XXII. OF 1840.

An Act for the punishment of Vagrants within the Towns of Calcutta, and of Madras, and of the Islands of Bombay and Colaba, extorting Alms by offensive and disgusting exhibitions and practices.

I. Persons within the Town of Calcutta, or of Madras, or within the Islands of Bombay and Colaba, who shall seek to extort Alms by

Act No. XVII.—Heads of Police are now allowed to try and dispose of offences against the Salt Laws, under certain limitations, by Act No. VII. of 1852.

offensively exhibiting any bodily ailment or deformity, or by any offensive or indecent practices, or by inflicting, or threatening to inflict, bodily injury on themselves, shall be liable, on conviction before any Justice of the Peace, to imprisonment with or without labour, for a term not exceeding one calendar month.

II. All persons guilty a second time of any of the above offences, shall be liable, on conviction before a Justice of the Peace, to imprisonment with hard labour for a term not exceeding twice the period assigned for the first offence, and for the same term upon any subsequent conviction.

III. Persons guilty of any of the offences abovementioned, who shall violently resist any Peace Officer attempting to apprehend them, shall be liable, on conviction before a Justice of the Peace, to imprisonment with or without hard labour for a term not exceeding three calendar months.

IV. It shall be lawful for the Governor General in Council from time to time, by notice in the *Gazette*, to extend the provisions of this Act to any Towns or Districts besides the places specified in this Act.

ACT No. V. OF 1841.

An Act for the greater uniformity of the process upon Trials for State Offences, and the amendment of such process in certain cases.

I. Whereas it is expedient that the rules of process for the trials of State offences should be modified with a view to uniformity at the different Presidencies ; and whereas some of the rules heretofore in force at particular Presidencies require amendment ;—

It is hereby enacted, in modification of all regulations and parts of

Act No. V. of 1841.—This enactment merely lays down new rules of *procedure*. The punishment for the offences of which it treats is prescribed in Act No. I. of 1834, which remains in force—for examples of sentences under it, see *C. R.* 681—686, pp. 331—334. The Governor in Council has the power of proclaiming "*Martial Law*"—under Reg. VII. of 1808.

regulations affecting process upon trials for state offences, that it shall be competent for the ordinary tribunals to try charges of treason, rebellion, or other crime against the State.

II. It shall be competent for the Government of any Presidency to issue a commission for the trial of any offences of treason, rebellion, or crime against the State, by one or more Judges, together with such Law Officers as shall be required, or without any such Officer, according as it may be deemed expedient.

III. The Courts convened under such commissions are to try the prisoners brought before them in the same manner as in trials before the Ordinary Courts; and shall exercise all powers and authorities vested in such Courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the highest Court of the East India Company for Criminal matters of the Presidency, previous to carrying the same into execution; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective Presidencies, or by any Act of the Governor General of India in Council, by the special orders which they may receive from the executive Government, or from the highest Court of the East India Company for Criminal matters in the Presidency.

IV. In case of the death, or of the absence from indisposition or other cause, of any of the Judges, or Law Officers of the Courts which may be appointed to try offenders under this Regulation, the remaining Judge or Judges, or Law Officer or Officers, shall be competent to form a Court, and proceed with the trial or trials, until provision can be made by the Government of the Presidency for supplying the place of such Judge or Judges, or Law Officer or Officers, if any such provision shall be deemed necessary; or, if no such provision be made, the powers and proceedings of the said Courts shall not be affected by the death or absence of such Judge or Judges, or Law Officer or Officers.

V. The highest Courts of the East India Company for Criminal matters of the respective Presidencies, on the receipt of any trials referred to them under this Act, are to proceed thereupon according

to the rules in force with respect to other trials referred to them, except that they are in every instance to report their sentences to the executive Government of the Presidency for the time being; and are to wait the orders of Government for the period of three Calendar months, before they direct their sentence to be carried into execution.

VI. The Magistrates of the several Zillahs and Cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the Presidency to which their several Districts or Cities belong; and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any enquiry respecting such persons, or for committing them to take their trials before the Ordinary Courts, or before the Special Courts described in this Act.

VII. This Act shall not be construed to alter or affect the jurisdiction of any of Her Majesty's Supreme Courts of Justice.

ACT No. XVI. of 1841.

An Act concerning the taking of Oaths of Qualification by Justices of the Peace.

I. All persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justice of the Peace in every respect, according to the tenor of such Commission, upon taking and subscribing in any Civil or Criminal Court of Justice within the places in and for which any such Commission shall have issued, before the officer presiding in such Court, whether such officer be a Justice of the Peace or not, the oaths appointed to be taken by Justices of the Peace; and the subscription of such persons to the said Oaths shall be deposited and kept with the records of the Courts of Justice in which the said oaths shall have been administered.

ACT No. XVIII. OF 1841.

An Act for consolidating and amending the enactments concerning the Exportation of Military Stores.

I. Arms, Ammunition, and Military Stores (with the exception of Arms in the possession of individuals for private use) shall not be exported, or otherwise taken from the territories of the East India Company, without a license from a public officer or officers for each Presidency, to be indicated by the Governments of the respective Presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such officer or officers in regard to such exports by the aforesaid Governments respectively. And any Arms, Ammunition, or Military Stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby, become forfeited, on the award of the officer or officers authorized as aforesaid to grant licenses, or the Collector of Customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees.

II. Any person who shall collect or keep in one place, or within places not exceeding three miles in distance from each other, any quantity of Gunpowder exceeding fifty pounds, without a license from such officer as aforesaid, shall be liable, on conviction before a Magistrate to a penalty not exceeding 500 Rupees; and such Gunpowder shall become forfeited on the award of the officer or officers authorized to grant licenses as aforesaid, or the Collector of Customs.

III. It shall be lawful for any of the Governments aforesaid, to allow at any port or ports, the exportation of Arms, Ammunition, and Military Stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.

Act No. XVIII. of 1841.—This act so far as the prohibition of *export*, without permission, was anticipated in this Presidency, by Sec. XVII. Reg. II. of 1812—which is still unrepealed and authorizes also prohibition of *import* without a like permission—it enacts that “Arms and Ammunition, and Military Stores, with the exception of fowling pieces, pistols, or other arms in the possession of individuals for private use, shall not be imported into, or exported from, any Port at this Presidency, without express permission from the Governor in Council, and a full compliance with all such rules and conditions as may be prescribed by the orders of Government for the guidance of the officers in charge of the Collection of Customs, in respect to such imports or exports.”

ACT No. XXI. OF 1841.

An Act for the better prevention of local Nuisances.

I. It shall be lawful for any Magistrate, when the public benefit and comfort are in question, to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places, and to suppress, or cause to be removed to a different place, trades or occupations injurious to the health or comfort of the community, and to prevent such construction of buildings and such disposal of combustible substances as may appear to him likely to occasion conflagration, and to cause the removal of buildings in such state of weakness, as by the probability of their falling, may appear to him to expose individuals to danger.

II. In exercising the authority conferred by the above Section, the Magistrate shall after holding such enquiry, as may satisfy him of the necessity of proceeding under this Act, issue an injunction, which, if practicable, shall be served personally on the parties concerned ; but if such service shall be impracticable or very inconvenient, the injunction shall be notified by oral proclamation, and a written notice thereof shall be set up at such place or places as may be best adapted for conveying information to the parties concerned. And in case such injunction be not obeyed, the Magistrate may compel observance thereof by force, and punish disobedience by fine not exceeding 200 Rupees, or by imprisonment without labour for any period not exceeding one month, and if the Magistrate finds it necessary to incur expense in removing noxious or dangerous articles, or buildings, it shall be lawful for him to sell the same, or their materials by public auction, in order to defray the charge, delivering any surplus that may remain to the owner. And it shall be lawful for the Magistrate to compel, under the like penalty, the owners of tanks or wells adjacent to any public thoroughfare, to fence the same in such manner as to prevent danger to the public arising therefrom.

III. It shall be lawful for any person affected by such injunction or written notice as is above described, if he shall object thereto, to claim, by written petition to be presented to the Magistrate within the period of 10 days if reasonably practicable, if not, within the

shortest reasonable further time from the receipt of such injunction, or the publication of such notice, that a Jury or Panchayet may be appointed to try and decide the question; and the Magistrate shall, on receiving such petition pass order thereupon for the appointment of a Jury or Panchayet, which shall consist of not less than five persons, whereof the President and one-half of the other Members shall be nominated by the Magistrate from the residents in the vicinity, and the remaining Members shall be nominated by the party petitioning. And the Magistrate shall suspend the further execution of the injunction or order, pending such enquiry, and be guided by the decision of the said Jury which shall be according to the opinion of the majority. Provided, however, that if the petitioner shall by neglect, or in other way, prevent the appointment of such Jury or Panchayet, or if, from any cause the Jury so appointed shall not decide and report within a reasonable time, to be fixed in the order for their appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by a Jury or Panchayet, the Magistrate's order shall take effect as if not opposed.

IV. All the proceedings of Magistrates under the authority of this Act shall be subject to the like appeal as other orders of Magistrates, according to the Regulations of the respective Presidencies.

V. This Act shall not be applicable within the local limits of Her Majesty's Courts of Justice.

ACT No. XXX. OF 1841.

An Act for repressing obstructions to Justice in certain Courts of the East India Company.

I. All persons whatsoever, whether generally amenable to the Courts of the East India Company, or otherwise, using menacing gestures or expressions, or otherwise obstructing justice in the presence of any Zillah or City Magistrate, Joint Magistrate, or other

Officer under a Magistrate empowered to try criminal cases, or any superior or inferior Court, Civil or Criminal, of the East India Company, shall be liable to be fined, by the authority whose proceedings are obstructed, to any amount not exceeding 200 Rupees, or in case such fine be not paid, to be imprisoned for any period not exceeding one month. Provided that from the award of punishment in such cases an appeal shall lie, if preferred within one month, to the authority, Civil or Criminal, appointed by Law to hear appeals in all other cases from the decisions of the Officer by whom the fine was imposed; and provided also that notwithstanding any thing in this Act, it shall be lawful to indict any person amenable to Her Majesty's Supreme Courts, as for a misdemeanor, in any of the cases aforesaid sustainable before this Act, if no proceeding shall have been had against the offender in the Court where the offence was committed, but not otherwise.

II. The Sudder Board of Revenue, the Local Commissioners, or other officers exercising the powers of either of these authorities, the Collectors or other Officers exercising the powers of Collector, shall be competent to punish any obstruction of the nature aforesaid, by fine to an extent not exceeding 200 Rupees; and in case such fine be not paid, by imprisonment in the Civil Jail for a period not exceeding one month. Provided that the orders passed in such cases shall be subject on appeal to the revision and control of the superior Revenue authorities, as in all others; and shall, as well as the sentences passed under Section I. of this Act, be carried into effect by the Magistrate, on application being made to that officer, in the usual mode.

ACT No. IV. OF 1843.

An Act for amending the Law concerning Appeals from Justices of the Peace, and from Magistrates acting under the Statute 53, Geo. III. c. 155.

I. An appeal shall lie from all sentences passed by any Justice of the Peace, acting without the local limits of any of Her Majesty's

Sec. I.—“*Appeal shall lie, &c.*” That is to the Session Judge, and eventually the Foujdaree Udalt. — See Act VII. of 1853.

Supreme Courts, upon convictions had before him for any offence, and from all sentences passed by any Magistrate upon convictions had before him exercising such jurisdiction as aforesaid, to the same authority and subject to the same rules, as are provided by the Regulations and Acts of the Government in the case of sentences passed by Magistrates in the exercise of their ordinary jurisdiction. And cases so made, the subject of appeal shall not be afterwards liable to revision by means of a Writ of Certiorari.

II. Nothing in this Act contained shall be held to take away the power of quashing any conviction by means of a Writ of Certiorari, in any other case than where there has been such appeal as aforesaid.

ACT No. V. of 1843.

An Act for declaring and amending the Law regarding the condition of Slavery within the Territories of the East India Company.

I. No public officer shall in execution of any decree or order of Court, or for the enforcement of any demand of rent or revenue, sell, or cause to be sold, any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.

II. No rights arising out of an alleged property in the person and services of another as a slave, shall be enforced by any Civil or Criminal Court, or Magistrate within the Territories of the East India Company.

III. No person who may have acquired property by his own industry or by the exercise of any art, calling or profession, or by inheritance, assignment, gift, or bequest shall be dispossessed of such property, or prevented from taking possession thereof, on the ground that such person, or that the person from whom the property may have been derived, was a slave.

IV. Any act which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

ACT No. VII. of 1843.

An Act for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I. and II., and Regulations VII. and VIII. of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts.

I. The Governor in Council of Fort Saint George, shall be empowered by an Order in Council to abolish the Provincial Courts of Appeal and Circuit, and the Civil and Criminal Zillah Courts, now existing in that Presidency, and to establish new Zillah Courts to perform the Civil and Criminal functions now performed by the said Provincial Courts, and to replace the existing Civil and Criminal Zillah Courts, by Courts constituted according to Regulations I. and II. of 1827, or Regulations VII. and VIII. of 1827, at his discretion.

II. Every Zillah Court established under this Act, shall be superintended by one Judge, who shall be styled Civil and Session Judge of the Zillah.

XXVI. The Judges of the Zillah Courts established under this Act shall exercise within the limits assigned to those Courts respec-

Sec. I.—For “order in Council,” see *Fort St. George Gazette*, 28th July 1843, No. 1346, p. 617.

Sec. XXVI.—That is, over all Europeans not British subjects, and Americans, and over the Natives of the country. Secs. XXXI. and IX. of 1816, and sec. XLIII. of this Act.

Always of course excepting the limits of the Supreme Court as laid down in Sec. XII. Reg. II. of 1802.

The legitimate child of a British father, by a woman of the country is not amenable to the Mofussil Courts—but his illegitimate offspring is so amenable, because illegitimate children are considered as of the same country as their mother.—*Beng. Const.* 978, 806.

A person born in wedlock at Madras, his father being a German and his mother a Scotch woman, was declared by the Advocate General to be a British subject and amenable only to the Supreme Court.—*N. A. R. Vol. 2, p. 111.*

If a person be found residing in the Mofussil in such circumstances as do not almost necessarily designate and prove him to be a British subject, it is for such person to prove his

tively, the same Criminal jurisdiction as is now exercised by the Judges of the Courts of Circuit; and shall be vested with the same authority, and subject to the same rules and restrictions, as far as they are applicable and consistent with this Act.

XXVII. The said Judges shall hold permanent Sessions in the said Zillah Courts for the trial of all persons accused of crimes and offences now cognizable by the Courts of Circuit, who shall be committed for trial by the Subordinate Judges, or Principal Sudder Ameen, of the Zillahs respectively.

XXIX. In modification of Clauses 1st and 3d, Section IX. Regulation X. of 1816, if upon a perusal of the depositions given before the Magistrate, or any competent Officer of Police, it shall appear to the Subordinate Judge, or Principal Sudder Ameen, before whom a prisoner is brought charged with a crime or misdemeanor subject to the jurisdiction of the Judge of the Zillah Court of Session, that there is evidence of the prisoner being concerned in the perpetration of the crime or misdemeanor with which he is charged, and if the deponents confirm their depositions on oath before him, it shall be competent to the Subordinate Judge, or Principal Sudder Ameen,

right to decline the jurisdiction of the local Courts. The practice of the Supreme Court in requiring its jurisdiction to be proved by the prosecutor, has been introduced in consequence of the jurisdiction of that Court being expressly confined to particular and specified classes of persons; but in Courts of general jurisdiction, the jurisdiction is to be presumed, and it is incumbent on the party declining it to show his exemption, *i. e.*, they are not limited except by reason of locality, and in them therefore the onus probandi as to his birth rests with the prisoner.—*Opinion of Advocate General, N. A. R. Vol. 2, p. 119.*

By Act No. XXIV. of 1836, a European British born subject, or descendant of such, if he hold the situation of Principal Sudder Ameen, or District Moonsiff, is in respect of all acts done by him as such, liable to the same proceedings as well *Criminal* as Civil, and is amenable to the same tribunals as if he were not of British birth or descent.

Any European British subject is likewise liable to fine and imprisonment for "obstructing justice" under Act No. XXX. of 1841.

Or to fine and imprisonment by Magistrate for assault, &c. under Reg. II. of 1820, and Act VII. of 1853.

Or for offence against the Abkarry laws, under Act No. XXXII. of 1845.

Sec. XXIX.—*See C. Os. 159 and 181.* These have been issued subsequent to this enactment, and in direct reference thereto, and as explanatory of the modifications intended to be made by it upon the former practice, but C. Os. [20th July 1829, C. Os. 16th Nov. 1831, and 15th Feb. 1832, must not be lost sight of in connection with the subject of committal; the principles therein laid down as to the power and duty of the committing officer to demand security in certain cases, the procuring of sufficient evidence, and the bad consequences flowing from a committal on defective evidence, remain in full force.

without further investigation, to commit the prisoner to take his trial before the Session Judge.

XXX. The Session Judge shall commence the trial immediately, and shall take the examination of the prosecutor and of the witnesses for the prosecution, and the defence of the prisoner, and the examinations of the witnesses for the defence, and if more witnesses have been previously summoned and are expected to attend, or if the Session Judge thinks it necessary after the commencement of the trial to call for further evidence, he shall adjourn the proceedings, permitting the prosecutor and witnesses to return to their houses, unless he shall see special cause to detain them in order to their being confronted with the other witnesses whose attendance is expected.

XXXI. Except in cases in which the Session Judge thinks proper to proceed as authorized in Section XXXII. of this Act, the Mahomedan Law Officer attached to the Zillah Court shall sit with the Session Judge for the trial of persons charged with crimes now cognizable by Courts of Circuit, in like manner and subject to the like Regulations as are now applicable to Law Officers sitting with the Courts of Circuit.

XXXII. *First.*—It shall be competent to Session Judges in the

Sec. XXX.—“*Defence.*” The practice of the Bengal Courts does not call upon the prisoner for a defence, unless they consider something to be apparently established against him, of which it is necessary that he should furnish a refutation.—*N. A. R. Vol. 2, p. 454.*

If the evidence for the Prosecution be in the opinion of the Session Judge and Mahomedan Law Officer clearly insufficient to prove the charge against the Prisoner, it would be superfluous to proceed with the defence.—*Beng. Const. 1257.*

A Judge cannot decline examining the witnesses of a Prisoner, of whatever nature their evidence may be, though he attach no weight to their testimony.—*N. A. R. Vol. 6, p. 12.*—Nor because they have been already examined for the prosecution.—*N. A. R. Vol. 11, p. 37.*

If Prisoner objects to examine his own witnesses, on the ground of their having been tampered with by Prosecutor, the Session Judge ought not to examine them.—*Const. 1203, N. A. R. Vol. 5, p. 115.*

Sec. XXXI. *Law Officers of the Zillah Court.*—Their mode of appointment is laid down in Reg. XI. of 1802, on admission to these criminal functions they make the affirmation prescribed in Sec. VIII. Reg. VII. of 1802.

Sec. XXXII. In Bengal any person not professing the Mahomedan faith, may challenge this mode of trial as of right.—*Beng. Reg. VI. 1832, Sec. 5.*

Mode of Selecting.—No power is given to compel attendance, only to invite. There are always officers of respectability attached to the Court, Law Officers, Sudder Ameen, &c. who can be invited to act as Assessors, and who can have no reasonable ground for declining.—*Beng. C. O. 127 of Vol. 2.*

trial of criminal cases, to avail themselves at their discretion, of the assistance of respectable Natives, or other persons, in either of the two following ways.

Viz.—By constituting two or more such persons Assessors, or Members of the Court, with a view to the advantages derivable from

An East Indian who by reason of his descent is not a British subject within the meaning of the existing laws, is eligible to be employed as a Juror or Assessor on the trial of a native of India, whether of Hindoo or Mahomedan persuasion, or of persons belonging to the same class as himself.—*Beng. Const.* 1019.

Court Vakeels should not be employed as Jurors or Assessors twice in the same year.—*F. U.* 13th Aug. 1846.

"*Verdict.*"—This Verdict is to be treated as a 'Futwah,' and the Session Judge on receiving one of "guilty," must—if he concurs—proceed according to the Regulations if the crime be therein specially provided for; and in cases where such specific provision is not made, must consider to what particular punishment the prisoner is liable under the Mahomedan Law. Thus if he be convicted of "culpable Homicide"—the Judge knowing him, from Futwahs formerly delivered to be liable to "Deyut" will proceed to make the prescribed commutation and pass sentence under Cl. 2, Sec. XV. Reg. VII. of 1802, or if of "Theft" to "Hud"—and will proceed under Sec. XXI. of the same Regulation. Sanction for all mitigations being applied for as provided in Reg. I. of 1825.—*F. U.* 8th March 1847, *quod. v. passim.*

"*Competent to dispose of finally.*"—A Session Court unassisted by a Mahomedan Law Officer, is incompetent to declare that to be a crime which is not so declared by the Regulations. The law professedly administered, is the Mahomedan Law amended and modified by the Regulations; where the amendments are applicable there can be no difficulty in disposing of trials, but in the contrary event an expounder of the Mahomedan Law is necessary to pronounce whether the act of the Prisoner be punishable or otherwise.—*Beng. C. O.* 55, Vol. 3.

A Futwah on any point of Mahomedan Law may, if necessary, be required without the attendance of the Law Officer on the trial.—*Beng. C. O.* 180 of Vol. 2.

In case of a trial commenced before a Jury, being adjourned, and it being impracticable from death or other cause, to procure the attendance of all the persons composing the Jury new Jurors should be appointed in the room of those whose attendance cannot be procured and the evidence taken should be read over to them.—*Beng. Const.* 828.

Any one Assessor differing from the Judge, necessitates a reference of the trial.—*F. U.* 8th May 1852.

The F. U. have however modified this ruling under date 12th March 1851, by declaring "that in all cases when, (it being competent for the presiding Judge to pass a final sentence) the Judge and the majority of the Assessors are in favor of acquittal, such sentence of acquittal shall be final, but that when the Judge and majority of the Assessors may be in favor of conviction the trial in such case shall be referred to the Court of Foujdaree Udaltut for final sentence"—but this can only apply when three Assessors at the least are employed, and in that case they may be treated as a Jury, whose verdict is of course the opinion of the majority.

their observations, particularly in the examination of witnesses. The opinion of each of the Assessors shall be given separately, and discussed, and if any of the Assessors, or the authority presiding in the Court, desire it, the opinions of the Assessors shall be recorded in writing.

Or by employing them more nearly as a Jury. They will then attend during the trial, will suggest, as it proceeds, such points of enquiry as occur to them, (the Court, if no objection exists, using every endeavour to procure the required information,) and after consultation will deliver in their verdict. The mode of selecting the Jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the Judge who presides.

Second.—Provided, that the Law Officer may be one of the Assessors or Jury.

Third.—Provided also, that the decision shall be passed by the Judge according to his own opinion, whether he agrees with the Assessors or Jury, or not, if the case be one which under the existing Regulations it is competent to him to dispose of finally. But if he differs from the Assessors or Jury, his decision shall not be carried into effect unless confirmed by the Court of Foujdaree Udalt to which the case shall be immediately referred.

XXXIII. It shall be competent to a single Judge of the Foujdaree Udalt on a revision of the proceedings held on any criminal trial by any Court of inferior jurisdiction, to reverse or alter the sentence or order passed thereon, provided such reversal or alteration be in favor of the accused, whether for acquittal, mitigation of punishment, or otherwise.

XXXIV. If a single Judge of the Foujdaree Udalt on a revision of the proceedings in a trial held by a Session Judge, concur in opinion with the Session Judge, whether for conviction or acquittal, it shall be competent to such single Judge to pass a final sentence, except for capital punishment, which as heretofore shall in cases require the concurrent opinion of two Judges of the Court.

XXXVI. In modification of Section II. Regulation III. of 1833, the authority to overrule judgments passed by Sudder Ameens in Criminal cases shall be vested in the Session Judges.

XXXVII. Section XXIV. Regulation X. of 1816, Clauses 2 and 3, Section IV. Regulation II. of 1822, Clause 2, Section V. and Clauses 2 and 4, Section VIII. Regulation VI. of 1827, shall be applicable to Session Judges instead of Judges of Circuit.

XXXVIII. Prosecutions against Magistrates and their Assistants under Section XLIII. Regulation IX. of 1816, shall be instituted in the Zillah Courts established under this Act.

XXXIX. *First.*—In modification of Section III. Regulation XIII. of 1832, it shall be the duty of the Session Judge to bring to the notice of the Foujdaree Udalut any gross misconduct of any Native Officer of Police which may have come under his observation in a case investigated by himself, or which may have been reported to him by a Subordinate Judge, or Principal Sudder Ameen, and which appears to him to deserve the penalty of dismissal, and it shall be competent to the Foujdaree Udalut to order the dismissal of such officer.

Second.—Provided, that the Session Judge shall furnish a copy of his Report upon the case to the Magistrate, and the Foujdaree Udalut shall not pass a final order upon it until the answer of the Magistrate, which shall be addressed to that Court, has been received and considered.

Sec. XXXVI. Session Judges need not go into the record of all cases decided by Sudder Ameens. They may do so on petition, or any other cause that may seem to them sufficient.
—*F. U. 15th March 1844.*

And this authority they should at all times exercise, and it is their (the Session Judges') duty to make the report required by the order of the 29th Nov. 1839, upon the manner in which Sudder Ameens exercise the criminal jurisdiction vested in them.—*F. U. 18th Feb. 1845.*

Sec. XXXVII. The Court of Foujdaree Udalut will not receive petitions from parties calling themselves relations of the Prisoners, without authority from the real Appellants.
—*F. U. 15th July 1857.*

XL. It shall be the duty of the Session Judge to bring to the notice of the Magistrate any minor neglects, or omissions, or transgressions, of the Subordinate Officers of Police which have come under his own observations, or have been reported to him by a Subordinate Judge, or Principal Sudder Ameen, and such notifications shall be recorded in the periodical returns to the Foujdaree Udalut.

XLI. It shall be competent to the Session Judge to report to the Foujdaree Udalut any neglect or delay on the part of the Magistrate, or the Subordinate Officers of the Magistracy, by which the course of justice has been seriously impeded in cases before himself, or which have been reported to him by a Subordinate Judge, or Principal Sudder Ameen.

XLII. It shall be competent to the Session Judges, Subordinate Judges, and Principal Sudder Ameen, to communicate directly with the District Officers of Police for the purpose of obtaining all the evidence that appears to be forthcoming in cases in which prisoners have been forwarded by them charged with crimes and misdemeanors, Section LV. Regulation XI. of 1816, notwithstanding.

XLIII. Except as provided in Section XLVII. of this Act, Europeans and Americans charged with offences not punishable by the Magistrate, committed within the local jurisdiction of a Principal Sudder Ameen, shall be sent for trial to the Session Judge who shall proceed thereon in conformity with the rules applicable to his own

Sec. XL. He can only "bring to notice"—he cannot direct the *course* to be adopted in consequence.—*F. U. 4th Oct. 1844.*

The duty of bringing any misconduct on the part of the Police to the notice of the Magistrate appertains solely to the Session Judge; to whom alone therefore should all remarks relative to the minor neglects, omissions, or transgressions of the subordinate officers of Police be communicated by the Subordinate Criminal Courts—which in reporting such should confine themselves to a simple statement of the facts, as they appear on the proceedings of the case.—*F. U. 7th Aug. 1851.*

Sec. XLII. This power is strictly confined to communications for the purpose of obtaining evidence—it does not authorize the notice of neglects, omissions or other errors, in any other way than that prescribed in Sec. XL. by the Magistrate on representation of the Session Judge.—*F. U. 16th Nov. 1843.*

Sec. XLIII. *i. e.* if the Criminal Court be presided over by a Principal Sudder Ameen—the committal of the Magistrate must be made to the Session Court—if by a Subordinate Judge—to that officer in the usual course.

Court, or to Courts constituted according to Regulation II. of 1827, as the case may require.

XLIV. In any Zillah, in which the Governor in Council of Fort St. George deems it expedient to establish the Zillah Court, and the Court or Courts under Subordinate Judges, or Principal Sudder Ameens, at separate stations, it shall be competent to the said Governor in Council, by an Order in Council, to authorize the Session Judge to take cognizance of all criminal cases subject ordinarily to to the jurisdiction of the Subordinate Courts, as well as cases subject to his own jurisdiction, which shall be sent to him by the Magistrate or Officers of Police of such Talooks as shall be therein indicated, and to dispose of such cases according to the rules applicable to them respectively.

XLV. In any Zillah in which the Governor in Council of Fort St. George deems it unnecessary to establish a Subordinate Civil and Criminal Court, constituted according to Regulations I. and II. or Regulations VII. and VIII. of 1827, it shall be competent to the said Governor in Council, by an Order in Council, to authorize the Civil and Session Judge to exercise the civil and criminal jurisdiction assigned to such Courts, besides the proper civil and criminal jurisdiction of the Zillah Court, and to take cognizance immediately of Criminal cases, within his proper jurisdiction as Session Judge, as they are sent up by the Police and Magistracy.

XLVI. When the said Governor in Council deems it proper to establish in any such Zillah a Court under a Sudder Ameen at a detached station, it shall be competent to the Governor in Council to authorize the Sudder Ameen to receive and dispose of criminal cases sent to him by the Police and Magistracy of the Division subject to his jurisdiction, for which the punishment prescribed shall not exceed the limitation specified in Section VII. Regulation X. of 1816.

XLVII. Whenever the Governor in Council of Fort St. George shall establish a Court under a European Principal Sudder Ameen at Cochin, such Principal Sudder Ameen shall exercise within the jurisdiction assigned to him all the powers of a Criminal Court constituted according to Regulation II. of 1827, and also all the powers of a Joint Magistrate.

XLVIII. When the Subordinate Criminal Court at the station of a Zillah Court is constituted according to Regulation VIII. of 1827, the Zillah Jail shall be under the charge of the Session Judge.

XLIX. When the Subordinate Criminal Court at the Station of the Zillah Court is constituted according to Regulation II. of 1827, the Zillah Jail shall be under the charge of the Judge of the Subordinate Criminal Court.

LIV. *First*.—And whereas it is deemed expedient to extend the powers vested in Magistrates by Regulation IX. of 1816.

It is hereby enacted, that the Magistrates be authorized to exercise the power vested in Criminal Judges by Section VII. Regulation X. of 1816, concurrently with the Subordinate Criminal Courts.

Second.—Provided that in all cases in which Magistrates shall exercise the additional powers hereby vested in them, the form of procedure shall be the same as is required to be observed in the Subordinate Criminal Courts in similar cases, and the same record shall be kept of the trial.

LV. And it is hereby enacted, that in every case in which a

Sec. XLVIII. Warrants for the infliction of capital punishment should in such cases be carried into execution under the personal superintendence of the Session Judge, unless circumstances of an urgent nature prevent his attendance.—*F. U. 3rd Nov. 1843.*

Sec. LIV. Cases disposed of under this Section to be entered in half yearly statements of crimes and misdemeanors before Police and Magistracy.—*F. U. 10th April 1844.*

Magistrates acting under this Section may impose fine for prevarication or contempt under Sec. VII. Reg. XIII. of 1832.—*F. U. 19th Nov. 1849.*

An Assistant Magistrate less than one year in employment, cannot take cognizance of cases under this Section.—*F. U. 2nd Dec. 1850.*

The Foujdaree Udalut resolve to direct that the several Magistrates will arrange for the disposal by themselves, or by their Assistants, of a due proportion of cases cognizable by them concurrently with the Subordinate Criminal Courts under Secs. LIV. and VII. of 1843—both when present at the Zillah station, and during their periodical tours through the districts under their charge.—*F. U. 25th June 1853.*

Sec. LV. The Foujdaree Udalut are of opinion that the period of appeal in all other cases should be similarly limited as a general rule.—*F. U. 30th March 1854.*

Although no person has a right of appeal to the Session Judge after the expiration of one month from the date of a Magistrate's order, yet the Judge is not only competent, but it is his duty to send for any case, in which he may see reason to presume a failure of justice, though no appeal has been preferred to him, and without any reference to the source from whence his information is derived.—*Beng. Const. 437 and 986.*

The period of appeal is limited merely as it relates to appellants, without respecting the discretionary authority of supervision possessed by the superior Courts.—*N. A. R. Vol. 2, p. 221.*

Magistrate shall exercise such additional powers, an Appeal from his sentence or order may be preferred to the Session Judge within one month; and it shall be competent to the Session Judge upon such an Appeal, to annul or alter the sentence or order, provided that he shall not increase the punishment awarded by the Magistrate.

ACT No. X. of 1843.

An Act for the administration of Justice, and collection of the Revenue in the District of Kurnool.

I. The administration of civil and criminal justice, the superintendence of the Police, and the collection and superintendence of the revenues of every description within the district of Kurnool, shall vest in such Agent to the Governor of Fort Saint George, as shall be appointed by the Governor in Council of Fort Saint George, and shall be exercised by the said Agent with the aid of such Assistants as may be appointed by the said Governor in Council.

II. It shall be competent to the Governor in Council of Fort St. George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of the Agent aforesaid, and of all the officers subordinate to his control and authority, and to determine to what extent the decision of the Agent in civil suits shall be final, and in what suits an Appeal shall lie to the Sudder Udalt, and to define the authority to be exercised by the Agent in criminal trials, and what cases he shall submit to the decision of the Foudaree Udalt.

III. Upon the receipt of any criminal trials referred by the Agent under the rules which may be hereafter prescribed by the Governor in Council, the Foudaree Udalt shall proceed to pass a final judgment, or such other order as may after mature considera-

Act No. X. of 1843.—This enactment originally referred to the districts of Kurnool and Bunganapilly, but the latter was restored to the Jagheerda, on the 1st January 1849, by Act No. XXV. of 1848. The rules for the guidance of the Agent are so nearly identical with those for the Agents in Ganjam and Vizagapatam given under Act No. XXIV. of 1839, that it is unnecessary to repeat them here.

tion, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Session Judge.

V. It shall be competent to the Governor in Council of Fort Saint George by an order in Council, to make from time to time with the previous sanction of the Governor General of India in Council, such alterations in the limits of the aforesaid District placed under the jurisdiction of the said Agent, as he may deem expedient.

ACT No. XVIII. OF 1843.

An Act for the better custody of persons convicted of Thuggee and Dacoity.

It shall be lawful for the Local Government of any part of the Territories subject to the Government of the East India Company, to authorize the reception and detention in any part of those Territories for the periods specified in their respective sentences, of persons sentenced to imprisonment or transportation for the offences of Thuggee, Dacoity, or the offences belonging to any gang of Thugs, or Dacoits, within the Territories of any Native Prince or State in alliance with the said Company. Provided always that such sentences shall have been pronounced after trial before a tribunal, in which a covenanted servant of the East India Company, duly authorized in that behalf by such Prince or State, shall be one of the presiding judges. Every servant of the East India Company so authorized as aforesaid, shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment may be carried into effect.

ACT No. XXIV. OF 1843.

An Act for the better prevention of the crime of Dacoity.

I. Whosoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of Dacoits, either within

or without the Territories of the East India Company, shall be punished with transportation for life, or with imprisonment for any less term with hard labour.

II. Any person accused of the offence of Dacoity, with or without murder, or of having belonged to a gang of Dacoits, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by Dacoity, may be committed by any Magistrate within the Territories of the East India Company and may be tried by any Court which would have been competent to try him if his offence had been committed within the Zillah where that Court sits.

III. No Court shall on trial of the offences specified in this Act, require any *futwah* from any law officer.

ACT No. V. of 1844.

An Act for the suppression of all Lotteries not authorized by Government.

I. In the Territories subject to the Government of the East India Company, all Lotteries not authorized by Government shall be deemed, and are hereby declared, common and public nuisances, and against law.

II. No person shall, within the said territories publicly or privately, keep any office or place for the purpose of drawing any Lottery not authorized by Government, or shall have any such Lottery drawn, or shall knowingly suffer any such Lottery to be drawn in his or her house; and any person so offending shall for every such offence, upon conviction before a Justice of the Peace, or Magistrate, be punished by fine not exceeding 5,000 Rupees.

III. No person shall, under any pretence, device, or description, whatsoever, agree to pay any sum, or to deliver any goods, or to do, or forbear doing, any thing for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, or figure, in

any such lottery, or shall publish any proposal for any of the purposes aforesaid; and any person offending in any of the matters mentioned in this Section shall for every such offence, upon conviction before a Justice of the Peace, or Magistrate, be punished by fine not exceeding 1,000 Rupees.

IV. Every fine which shall be incurred under the provisions of this Act, shall be applied one half to the use of Government, and the other half to the use of the informer or informers.

ACT No. XIV. OF 1844.

An Act for regulating the Proceedings of the Sudder Courts at Fort William, Fort St. George, Bombay, and at Agra, in regard to sentences of transportation for life.

I. Within the Territories subject to the Government of the East India Company, whenever any of the Sudder Courts shall sentence any offender to imprisonment for life it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the Court to think such prisoner not a proper subject for transportation, which special reasons the Court is hereby directed to record.

II. Within the said Territories whenever any offender shall have been sentenced in the first instance by a Commissioner of Circuit or Session Judge to imprisonment for life, or whenever a Commissioner of Circuit or Session Judge shall have recommended that sentence of imprisonment for life be passed upon any offender, it shall be competent to a single Judge of the Sudder Court to sentence such offender, at the same time to transportation beyond sea for life; and such single Judge is hereby directed to sentence such offender at the same time to transportation beyond sea for life, unless there should be special reasons inducing him to think such offender not a proper subject for transportation, which special reasons he is hereby further directed to record.

Act No. XIV. of 1844.—The term "*Sudder*" is herein used to express the chief Criminal Court at each Presidency, as provided by Act No. VIII. of 1842.

ACT No. VI. OF 1845.

An Act to amend the Law regarding the issue of Commissions of the Peace.

The Supreme Court of Judicature of each Presidency, shall and may from time to time, upon the order or warrant of the Executive Government of such Presidency, issue separate Commissions to any persons not named in the General Commission of the Peace last issued, who by law are capable of being appointed to the office of Justice of the Peace, and who shall be nominated and appointed by such Executive Government to act as Justices of the Peace within and for such Presidency and the places subordinate thereto, or within and for the Presidency Town ; and all such Commissions shall be issued in the name of the Queen's Majesty, her Heirs and Successors, under the Seal of the Supreme Court, and tested in the name of the Chief Justice of such Court, and shall be filed on record in the Court of Oyer and Terminer of the Presidency, or place wherein and for which the same shall be issued, as supplementary to the General Commission of the Peace last issued, which shall remain in full force.

ACT No. X. OF 1845.

An Act for empowering Courts to issue Warrants in cases of failure to serve Summons.

In the Territories subject to the Government of the East India Company, except the local jurisdiction of the Supreme Courts, whenever in any criminal case a summons to the Defendant is by law the first process, it shall be lawful for any Court which has issued a summons in such case, to issue a warrant for the apprehension of the defendant in such case, upon proof that due diligence has been used to serve such summons upon the defendant, and that

Act No. VI. of 1845.—By Act No. IV. of 1847, the Governor in Council of Fort St George is empowered to appoint any military officer to be a Magistrate, or Assistant Magistrate, and as such to qualify as a Justice of the Peace,

the officer, or other person whose duty it may be to serve such summons upon the defendant, has been unable to serve such summons; any law or regulation to the contrary notwithstanding.

ACT No. XVIII. OF 1845.

An Act for the punishment of offences committed by Convicts sentenced to imprisonment for life.

I. Within the Territories subject to the Government of the East India Company, except within the local limits of the jurisdiction of the Supreme Courts, and except within the Settlements in the Straits of Malacca, any Convict sentenced to imprisonment for life, or to transportation for life, who does any act with the intention of thereby causing, or with the knowledge, that he or she is likely thereby to cause the death of any person, shall, upon conviction thereof, before the Session Court, subject to confirmation by the Sudder Court, be punished with death, or with transportation for life, or with corporal punishment not exceeding 195 lashes, whether such Convict does, or does not, by such act cause the death of any person.

II. Any such Convict as aforesaid who commits any offence whatever, other than the offences mentioned in the preceding Section, or who is guilty of violent or disorderly conduct after having been punished by the order of the Superintendent of the jail, in which he or she is confined, shall, upon conviction thereof before the Session Court, subject, if the sentence be transportation for life, to confirmation by the Sudder Court, be punished with transportation for life, or with corporal punishment not exceeding 195 lashes.

ACT No. XXX. OF 1845.

An Act for enabling Session Judges within the Madras Presidency, to award fines in compensation to injured parties.

It shall be competent to the Session Judges within the Presidency of Fort St. George, in adjudging a sentence of fine, to award such fine, or any part of such fine, in compensation to the party who may

have been injured, in like manner as it is competent to Magistrates to award fines under Clause 2nd, Section XXXIX. Regulation IX. of 1816, of the Madras Code.

ACT No. XXXII. OF 1845.

An Act to modify Regulation I. of 1820, of the Madras Code, relative to manufacturing spirituous liquors by the European process of distillation.

II. The licences to be granted under Section IV. Regulation I. of 1820, of the Madras Code, for the establishment of all distilleries for manufacturing rum, arrack or other spirits by process of distillation similar to the European system, shall be prepared according to a form to be approved by the Board of Revenue, and shall contain a stipulation that the whole of the spirituous liquor manufactured at such distillery shall be exported by sea, or shall be sold only to the Civil or Military Officers of Government, empowered to purchase the same on account of the public service, or to Abkarry Renters for retail sale within the limits of their respective farms, but not to the licensed retail dealers of Madras, contemplated by Section VII. Regulation I. of 1813, of the Madras Code.

III. Any person, whether European or not, who in breach of the stipulation in his distillery licence held under the provisions of the foregoing Section, and of Clause 1st, Section IV. Regulation I. of 1820, of the Madras Code, shall directly or indirectly, sell, or permit to be sold, any such spirituous liquors to any European sailor or soldier, or to any native of India, or other person, save and except to those persons to whom it is hereinbefore declared that such liquors may be lawfully sold, shall, on proof thereof to the satisfaction of the Collector of revenue, by whom such licence shall have been granted, be liable to the forfeiture of his licence, or to a fine not exceeding Rupees 1,000 for every such offence, subject to the confirmation of the Board of Revenue, to whose final decision every such case shall be referred.

Act No. XXXII. of 1845.—Section I. of this Act merely repealed Cls. 2 and 3, of Sec. IV. Reg. I. of 1820.—For Rules relative to the Importation and Exportation of Rum and Arrack Shrub, see Act No. XXIII. of 1841, which does not however fall within the scope of this work.

IV. European British subjects, as well as other parties guilty of the offences specified in Regulation I. of 1820, shall on conviction before the Session Judge, or Subordinate Judge of the Zillah, be subject to the penalties therein severally and respectively provided against the commission of such offences; save and except that no European British subject shall in any case be liable to hard labour when imprisoned in pursuance of a sentence passed upon him under that Regulation, but that any fines which may be imposed for acts done in breach of the provisions of the said Regulation, or of the provisions of Sections 2 and 3 of this Act, shall in default of payment be recovered by the distress and sale of the property of the parties against whom such fines shall have been adjudged.

V. It shall be lawful for the Session Judge, or Subordinate Judge of the Zillah, in sentencing any European British subject to imprisonment, to direct that the imprisonment shall be in the Gaol at Madras.

VI. The Gaoler of the Gaol at Madras shall receive into the said Gaol any European British subject so sentenced as aforesaid, and keep him there imprisoned during the term of his sentence in the same manner as if he had been sentenced by the Supreme Court.

ACT No. II. of 1847.

An Act to declare the meaning and extent of certain words in Act No. V. of 1840.

Whereas by Section IV. of Act V. of 1840, it was amongst other things provided, that the said Act should not extend to any declaration or affirmation made in any of Her Majesty's Courts of Justice, and doubts have arisen whether the words "Her Majesty's Courts of Justice" mean and extend to the Courts of the Justices of the Peace.

It is hereby declared and enacted, that the words "Her Majesty's Courts of Justice" in the said Act, shall be deemed not to have meant nor extended to, and not to mean, nor extend to, the Courts of the Justices of the Peace.

ACT No. IV. OF 1847.

An Act to authorize the Governor in Council of Fort St. George to appoint any Military Officer a Magistrate.

It shall be competent to the Governor in Council of Fort St. George to appoint any Military Officer in the service of the East India Company, a Magistrate, or an Assistant Magistrate, in one or more Zillahs, and to confer on any Assistant Magistrate, by a special order, any of the powers of a Magistrate, any Law or Regulation to the contrary notwithstanding.

ACT No. V. OF 1847.

An Act to facilitate the execution of the Sentences of Courts established by the authority of the Governor General in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company.

I. Within the Territories subject to the Government of the East India Company, and without the local limits of the jurisdiction of Her Majesty's Courts of Judicature, the several officers in charge of Jails shall be competent to give effect to any sentence that may be passed by any Court established, or that may be established, by the authority of the Governor General of India in Council for the administration of criminal justice in States or Territories administered by officers acting under the authority of the East India Company, although such States or Territories are not subject to the Government of any one of the Presidencies of Fort William in Bengal, Fort St. George, or Bombay, or are not subject to the operation of the general Regulations.

II. A warrant under the official seal and signature of the officer or officers exercising criminal jurisdiction within such States or Territories as aforesaid, shall be sufficient authority for holding any

prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, or for inflicting any other punishment prescribed therein.

III. If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto, to pass the sentence, and issue such warrant, such Officer shall refer the matter to the Government to which he is subject, by whose order in the case, such Officer, and all other public Officers, shall be guided as to the future disposal of the prisoner; and pending any such reference, the prisoner shall be detained in custody, in such manner, and with such restrictions or mitigations, as may be specified in the warrant.

IV. The provisions of the existing Acts and Regulations and all other Rules in force for the treatment and security of prisoners confined in the said Jails shall apply, and be of equal force and effect, in the case of prisoners confined therein under this Act, as in the case of other prisoners confined therein.

ACT No. X. of 1847.

An Act for amending Act XXX. of 1836.

Within the Territories subject to the Government of the East India Company, whenever any Court not included under the provisions of Act XIV. of 1844, shall sentence any offender to imprisonment for life under the provisions of Act XXX. of 1836, it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the Court to think such prisoner not a proper subject for transportation, which special reasons the Court is hereby directed to record.

Act. No. X. of 1847.—By Act No. XXX. of 1836, Courts other than Sudder Courts, are empowered, in the cases of Thuggee and Dacoity, to pass a final sentence of imprisonment for life—and this enactment prescribes that transportation be also adjudged in such cases.

ACT No. III. OF 1848.

An Act for removing doubts as to the meaning of the words "Thug" and "Thuggee," and the expression "Murder by Thuggee," when used in the Acts of the Council of India.

The word "Thug," when used in any Act heretofore passed by the Council of India, shall be taken to have meant, and to mean, a person who is, or has at any time been, habitually associated with any other, or others for the purpose of committing, by means intended by such person, or known by such person to be likely to cause the death of any person, the offence of Child-Stealing, or the offence of Robbery not amounting to Dacoity. And that the word "Thuggee," when used in such Acts, shall be taken to have meant and to mean, the offence of committing or attempting any such Child-Stealing, or Robbery, by a Thug. And that the expression "Murder by Thuggee" when used in such Acts shall be taken to have meant, and to mean, Murder when employed as the means of committing such Child-Stealing, or such Robbery by a Thug.

ACT No. XI. OF 1848.

An Act for the punishment of wandering gangs of Thieves and Robbers.

I. Whosoever shall be proved to have belonged, either before or after the passing of this Act, to any wandering gang of persons, associated for the purpose of theft or robbery, not being a gang of Thugs or Dacoits, shall be punished with imprisonment with hard labour for any term not exceeding seven years.

II. Any person accused of the offence of belonging to any such gang as aforesaid, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by any such gang, may be committed by any Magistrate within the Territories of the East India Company, and may be tried by any Court which would have

been competent to try him if his offence had been committed within the Zillah were that Court sits.

III. No Court shall on the trial of any offence under this Act require any Futwah from any Law Officer.

ACT No. XIX. or 1848.

For better defining the Law as to revision of the sentences of Subordinate Criminal Courts in the Presidencies of Bengal and Madras.

II. The Nizamut Udalut in the Presidency of Bengal and Foujdaree Udalut in the Presidency of Madras, in any case in which it shall appear to either of them upon a review of the Abstract Statements or Calendars of Prisoners punished without reference, that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the Abstract Statement or Calendar, shall annul the sentence, and shall certify to the subordinate Court the sentence or sentences which may lawfully be passed for such offence, and thereupon the subordinate Court shall pass a new sentence according to Law, and shall amend the Record in accordance therewith.

III. The said Nizamut Udalut or Foujdaree Udalut, in any case in which it shall appear to either of them, upon a review of the Abstract Statements or Calendars of prisoners punished without reference, that the verdict or judgment pronounced on any prisoner was not warranted by the evidence, or that his sentence was too severe, may, if it thinks fit, require the Judge of the Court in which the conviction was had, to certify under his hand all the evidence taken in the case affecting such prisoners, with any observations which the Judge may be desirous of making in explanation of the verdict, judgment, or sentence; and thereupon the Nizamut Udalut, or Foujdaree Udalut, as the case may be, may annul such verdict, judgment, and sentence, if the verdict or judgment shall appear to it not warranted by the evidence, or mitigate the sentence, if it shall appear too severe, and in either case shall certify its proceedings to the

Court in which the conviction was had, which shall thereupon make such orders as are conformable to the decision of the Nizamut Udalut, or Foujdaree Udalut, and if necessary, amend the record in accordance therewith.

IV. Instead of proceeding under this Act, the said Nizamut Udalut or Foujdaree Udalut may, whenever it thinks fit, call for the whole record of any criminal trial in any subordinate Court, and pass thereon such orders as it thinks fit, but not so as to enhance the punishment awarded, or punish any person acquitted in the subordinate Court.

ACT No. I. of 1849.

An Act to provide more effectually for the punishment of offences committed in Foreign States.

II. All subjects of the British Government, and also all persons in the Civil or Military Service of the said Government while actually in such service, and for 6 months afterwards, and also all persons who shall have dwelt for 6 months within the British Territories under the Government of the East India Company, subject to the laws of the said Territories, who shall be apprehended within the said Territories, or delivered into the custody of a Magistrate within the said Territories, wherever apprehended, shall be amenable to law for all offences committed by them within the Territory of any Foreign Prince or State, and may be bailed or committed for trial as hereafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence, if it had been committed within the British Territories.

III. The committing Magistrate immediately, and before the trial, shall report every such case to the Government, and shall obey the orders which he shall receive thereon.

IV. The Government may order the trial to be held before one of the established Courts of Criminal Judicature, which would be

competent to try the person charged for the offence if it had been committed within the British Territories.

V. When the offence is charged to have been committed in the Territory of any Foreign Prince or State administered by officers acting under the authority of the East India Company, in which Territory a Court competent to try the person charged for the offence, is established by authority of the Governor General of India in Council, the Government may order such person to be conveyed in custody, out of the British Territories, for the purpose of delivering him up for trial before such Court.

VI. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of Government can be received and acted on ; when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as the Magistrate from time to time shall require, and if Government shall order the persons charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

VII. In either case, the special order of the Government shall be deemed full authority either for the trial and punishment of the person charged within the British Territories, or for conveying him in custody, out of the British Territories as aforesaid.

VIII. The word "Government" as used in the third and following Sections of this Act, means the Governor, or Governor in Council, or other person or persons having supreme executive authority, in the Presidency or place to which the committing Magistrate belongs.

IX. The authority hereinbefore given to the Government, may be also exercised by any Commissioner or other person acting in the Civil Service of the East India Company, to whom the Governor General in Council shall have delegated authority to receive reports and give orders in cases within this Act.

ACT No. II. OF 1849.

An Act to abolish the practice of branding and exposing Convicts.

II. It shall not be lawful for any Court or Magistrate within the Territories under the Government of the East India Company, to order that any brand or indelible mark of any kind, be made, or renewed, on any part of the person of any convicted offender; or to sentence any offender to be publicly exposed by *Tusheer*; or to any other degrading exposure.

ACT No. IV. OF 1849.

An Act for the safe custody of Criminal Lunatics.

Whereas it is expedient to declare what unsoundness of mind excuses the commission of criminal acts, and to provide for the safe custody of persons found to have committed such acts, but acquitted by reasons of unsoundness of mind, It is enacted as follows:

I. No person, who does an act which, if done by a person of sound mind, is an offence, shall be acquitted of such offence for unsoundness of mind, unless the Court or Jury, as the case may be, in which, according to the constitution of the Court, the power of conviction or acquittal is vested, shall find, that by reason of unsoundness of mind, not wilfully caused by himself, he was unconscious, and incapable of knowing, at the time of doing the said act, that he was doing an act forbidden by the law of the land.

II. Whenever a person charged with any offence shall be acquitted, because he is within the exception made by the foregoing Section, the Court or Jury shall give a special judgment or verdict, that he did the act charged against him, being then of unsound mind, so as to excuse him according to law.

III. Whenever such special judgment or verdict, as aforesaid shall have been given against any person, the Court, before which the trial was held, shall order him to be kept in safe custody, in such place and manner as to the Court shall seem fit, until the pleasure of the Government can be known thereon: and thereupon the Government

may order such person to be kept in strict custody, for such time, and in such manner, as to the Government shall seem fit.

IV. In all cases in which before the passing of this Act, any person has been acquitted of any offence, on the ground of insanity, lunacy, idiocy, or unsoundness of mind, such person may be kept in the same strict custody in which persons may be kept, who shall be hereafter acquitted, for unsoundness of mind.

V. No person, against whom any such special judgment or verdict shall have been given, shall be entitled to be discharged out of custody, on being restored to soundness of mind, unless by order, and at the discretion of Government.

VI. Whenever it shall appear to the Government that any person imprisoned by the sentence of any Court, is of unsound mind, the Government by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, or other fit place of safe custody, there to be kept and treated as the Government shall order, and, when it shall appear to the Government that such prisoner has become of sound mind, the Government, by a warrant directed to the person having charge of him, shall remand such prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not shall order him to be discharged out of custody.

VII. The word "Government" in this Act shall be taken to mean the Governor, or Governor in Council, or other person or persons administering the Government of the Presidency or place where the trial is had.

ACT No. XIV. of 1849.

To punish tampering with the Army or Navy.

Whereas the laws in force for punishing mutiny and sedition do not sufficiently provide for the punishment of all persons endeavoring to stir up mutiny and sedition among the Forces of the East India Company, or to seduce them from their allegiance and duty, It is enacted as follows :

I. Every person who maliciously and advisedly endeavors to seduce any person or persons, serving, or engaged to serve, in the Military or Naval Forces of the East India Company, from his or their allegiance to Her Majesty, or duty to the said Company, or who endeavors to stir up any person or persons belonging to either of the said services, to commit any act of mutiny, or to make, or endeavor to make, any mutinous assembly, or to commit any traitorous or mutinous practice whatsoever, shall, on conviction, suffer transportation for life, or imprisonment, with or without hard labour, for any term not longer than seven years, as the Court shall adjudge.

II. Any person charged with any offence, punishable under this Act, may be committed by any Magistrate within the Territories under the Government of the East India Company, and shall be tried by the Court of Session; or if the offender be not within the ordinary jurisdiction of the Court of Session, by the Supreme Court of Judicature established by Royal Charter within the Presidency in which he is in custody.

III. No Court shall, on the trial of any offence under this Act, require any futwah from any law officer.

IV. This Act shall not exempt any person governed by the Articles of War from being tried by a Court Martial, and punished according to the Articles of War, nor any person belonging to the Indian Navy from being tried by a Court Martial and punished according to the laws for the observance of discipline in the Indian Navy; but no person shall be tried for the same offence under the said Articles or Laws and also under this Act.

Act No. XIV. of 1849.—Act No. III. of 1855.—Which it has not been thought necessary to insert at length in this work, as being rarely needed in this Presidency—contains provisions for “the better prevention of desertion from the Indian Navy.” The penalties prescribed by it will be found in the Statement of “Crimes and Offences.”

Act No. XIV. of 1857.—Enacts, temporarily, further and more stringent penalties against tampering with the Native Army.

ACT No. VII. OF 1850.

An Act for better defining the Law as to the removal of Prisoners.

II. When any person is under sentence of imprisonment, within the territories under the Government of the East India Company, by any authority other than that of one of the Supreme Courts of Judicature established by Royal Charter, the Governor, or Governor in Council, or other person administering the Government of the Presidency or Place, may order the removal of such prisoner from the prison, or place, in which he is confined, to any other public prison, or place of confinement within the same Presidency or Government.

III. The time of removal from one prison, to another, or while the prisoner is in custody under such warrant of removal, shall reckon as part of his imprisonment.

ACT No. XIII. OF 1850.

For punishing Breaches of Trust.

For the punishment of Breaches of Trust, it is enacted as follows :

I. Every person employed in the public service of Her Majesty, or of the East India Company, and entrusted by reason of such employment, with the receipt, custody or control of any chattel, money, or valuable security, who shall embezzle the same, or any part thereof, or in any manner fraudulently apply, use, or dispose of the same, or any part thereof, for any purpose other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have feloniously stolen the same.

II. All official trustees, assignees and receivers of money, by virtue of their several offices or appointments, all Justices of the Peace, Coroners and other persons, receiving by virtue of their offices or appointments, any fines, forfeitures, penalties, or other moneys, on behalf of Her Majesty, or of the East India Company, all Sheriffs, under Sheriffs, Bailiffs, officers, and other persons employed to levy

money in execution of the judgment, or order of any Court, or in receiving any taxes or other moneys directed to be levied by any Regulation of the Governor, or Governor in Council of any Presidency or Place, or by any act of the Governor General of India in Council, and also all subordinate officers and servants employed in the office or service of any of the persons hereinbefore enumerated, and entrusted with money in the course of such employment, are declared to be persons employed in the public service within the meaning of this Act; but this special enumeration of some of the persons included in the general description of persons in the public service of Her Majesty or the East India Company, shall not be taken to abridge the meaning of that general description.

III. The Clauses respectively numbered XCIX., C., CI., CII., CIII., and CIV., in an Act of Parliament passed in the ninth year of the Reign of King George the Fourth, intituled an Act for improving the administration of Criminal Justice in the East Indies, are repealed, except as to all things done, or forborne to be done, before the passing of this Act.

IV. Every clerk or servant, who shall steal any chattel, money, or valuable security, belonging to, or in the possession or power of his master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.

V. Every clerk or servant, or any person employed for the purpose, or in the capacity of a clerk or servant, who shall by virtue of such employment, receive or take into his possession any chattel, money, or valuable security, for, or in the name, or on the account of his master, and who shall fraudulently embezzle the same, or any part thereof, shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of his master otherwise than by the actual possession of his clerk, servant or other persons so employed.

VI. Every member and officer of a trading Corporation or Company, and also every banker, merchant, factor, broker, attorney or other agent, whether he be commonly so employed, or be employed as an agent in that instance only, and whether he act as

such Agent gratuitously or otherwise, to whom any chattel, money, or valuable security is entrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negotiate, pledge, or employ the same, but with an authority limited to some defined purpose as to the application of such money, chattel, or valuable security, or of any part thereof, or of the proceeds, or of any part of the proceeds thereof, who shall fraudulently apply, use, or dispose of the same, or any part of the proceeds thereof, for any purpose other than a purpose for which the same was entrusted to him, shall be deemed to have feloniously stolen the same.

VII. Every sub-agent, clerk or servant of any such trading Corporation or Company, or of any banker, merchant, factor, broker, or other agent as aforesaid, who, knowing the purpose for which such chattel, money, or valuable security was entrusted to the Corporation, Company, person or persons, by whom he is employed, shall fraudulently apply, use, or dispose of the same, for any purpose other than a purpose for which the same was entrusted to his employer or employers, shall be deemed to have feloniously stolen the same, though he were not himself immediately employed or entrusted with the disposition thereof by the person entitled thereto.

VIII. Every person, possessed, or having the receipt, custody or control, of any chattel, money, or valuable security, in trust for any other person or persons, who shall embezzle the same or any part thereof, or in any manner fraudulently apply, use, or dispose of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have feloniously stolen the same.

IX. Every person convicted of having feloniously stolen any chattel, money, or valuable security, under this Act, shall be liable to be transported out of the territories under the Government of the East India Company for life, or to be imprisoned with or without labour for any term not exceeding seven years.

X. Every instrument entitling or showing the title of any person to any share or interest in any public stock or fund of any country

or State, or in any Stock of any Corporation or Company, or for the transfer of any such share or interest, or for the receipt of any dividend or interest on any such share, or entitling or showing the title to any deposit in any bank, and every warrant, order, or instrument for the payment of any money on any event, certain or contingent, or for the delivery or receipt of any goods, or merchandize, on any such event, is a valuable security within the meaning of this Act.

XI. Any offender under this Act may be proceeded against on the same charge for any number of distinct acts of embezzlement, or fraudulent application, use or disposition as aforesaid, committed by him within six calendar months, from the first to the last of such acts : and proof of a gross deficiency in the accounts of any such trustee or public servant, shall be evidence of the offence charged, until such deficiency is otherwise explained.

XII. If the offence relates to money, or to any bank note, bank post bill, banker's cheque, bill of exchange, promissory note, Government Paper, or other like security for the payment of money, it shall be enough in the indictment or charge to allege the embezzlement or fraudulent application, use or disposition of money, without specifying any particular coin or valuable security ; and such allegation shall, so far as regards the kind of property, be sustained, if the offender is proved to have embezzled, or fraudulently applied, used or disposed of, any amount of money or any valuable security, though the particular kind of coin or valuable security, of which such amount was composed, shall not be proved.

XIII. It shall not be necessary, in any proceeding against any offender under this Act to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs, otherwise than hereinafter provided ; or to give any other description of it than by stating its general character according to the provisions of this Act ; and if the offence be that of embezzlement or fraudulent application, use or disposition, by a person in the public service of the Crown, or of the East India Company, of property entrusted to him by reason of such employment, or part thereof, it shall be enough to state that the defendant was in such service, and that he received the property by reason of such employment, and embezzled the same, or part

thereof, or fraudulently applied, used or disposed of the same, as the case may be; and, if the case be one of fraudulent application, use, or disposition, by any person not being such public servant, but entrusted as aforesaid, it shall be enough to state that such person was entrusted with the property (describing its general character as aforesaid,) and it shall be enough to state shortly the purpose of the trust, and that he fraudulently applied, used or disposed of the same contrary to his duty in that behalf.

XIV. The Court before which any offender is tried under this Act, shall have power upon the trial to make any amendments that may be necessary by reason of any variance between the statements of the charge and the evidence, either in the description of the property, or of any person, or of any office, appointment or employment, or of the purpose of the trust or otherwise, when in the opinion of the Court, the person charged cannot have been misled as to his defence by such imperfect or erroneous statement.

XV. Every offender under this Act may be tried and punished by any Court of competent jurisdiction either in the place where he is in custody, or where he committed the offence.

XVI. The punishment of any offender under this Act, shall not be deemed to take away or lessen his liability, or the liability of his sureties, to make good any loss sustained by Her Majesty or the East India Company, or any other person or persons, by his misbehaviour or breach of trust.

XVII. Every person charged with a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished false statements or accounts of the sums of money received or paid by him or entrusted to his care, or of the goods or balance of money in his custody or control, shall be liable to fine in the discretion of the Court, although no actual embezzlement or fraudulent application, use or disposition of trust moneys, chattels, or valuable securities, is proved against him; and in addition to such fine may be imprisoned, with or without labour, as the Court shall adjudge, for any term not exceeding one year; but no person convicted of felonious breach of trust as aforesaid, shall be punished also for making up false accounts in connection with the same breach of trust.

ACT No. XVI. OF 1850.

An Act for restitution of the value of stolen property.

I. All Criminal Courts within the Territories under the Government of the East India Company, may add to the punishment competent to them to inflict upon persons convicted before them of robbery, theft, embezzlement, knowingly receiving stolen goods, cheating or other wrongful appropriation of property, or of being accessory or privy to any such offence, the punishment of fine, not exceeding the loss appearing to be caused to the several persons who have suffered by such wrong; and may pay and distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said several persons according to the discretion of the Court.

II. Payment of every such fine may be enforced by distress and sale under the order of the Court, of the goods of the offender.

ACT No. XVIII. OF 1850.

An Act for the protection of Judicial Officers.

I. No Judge, Magistrate, Justice of the Peace, Collector, or other person acting judicially, shall be liable to be sued in any civil Court for any act done, or ordered to be done, by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of: and no officer of any Court, or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Justice of the Peace, Collector, or other person acting judicially, shall be liable to be sued in any civil Court, for the execution of any warrant or order, which he would be bound to execute if within the jurisdiction of the person issuing the same.

ACT No. XXXIV. OF 1850.

An Act for the better custody of State Prisoners.

Whereas doubts have been entertained whether State Prisoners confined under Reg. III. of 1818, of the Bengal Code, can be lawfully

detained in any fortress, jail, or other place, within the jurisdiction of any of the Supreme Courts of Judicature established by Royal Charter, and it is expedient that such doubts be removed and the powers of the said Regulation extended to all the Territories under the Government of the East India Company. It is enacted as follows.

I. The warrant of commitment of any State Prisoner under Regulation III. of 1818, of the Bengal Code, may be directed to the Sheriff of the jail of any of the Supreme Courts of Judicature established by Royal Charter in the said Territories, or to the Commandant of any fortress, or to the officer in charge of any jail or other place in which it is deemed expedient that such State Prisoners be confined, in any part of the said Territories; and such warrant shall be sufficient authority for the detention of such State Prisoner in the fortress, jail, or other place mentioned in the warrant.

II. Regulation III. of 1818, of the Bengal Code, shall be extended and applied to every Sheriff, Commandant, or officer, having any State Prisoner in custody, under the said Regulation, as explained and extended by this Act.

III. Any State Prisoner now confined under any such warrant within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor General in Council, shall be deemed to have been lawfully committed thereunto.

ACT No. XXXVIII. OF 1850.

An Act to allow Counsel to all persons on the trial of offences.

I. In all Courts, and before all Magistrates; or persons exercising any of the powers of a Magistrate, under the authority of the East India Company, every person on trial for the commission of any offence shall be admitted to defend himself either personally or by his authorized agent, and, after the close of the case for the prosecution, to make full answer and defence thereto either personally or by his authorized agent.

“Sec. I. Reg. III. of 1818 of the Bengal Code.” This Bengal Regulation was adopted and brought into the Madras Code as Reg. II. of 1819—which sec. This Act therefore more fully removes any doubts which may have existed as to the extent of its application, &c.

II. The said Courts, Magistrates, and persons, subject to such rules as shall be from time to time made for their guidance by the Nizamut or Foujdaree Udalut, may allow any prosecution to be conducted by an authorized agent.

III. In those Courts in which any person now has by law the right of employing whomsoever he can employ as counsel or pleader, nothing in this Act shall be deemed to restrict that right: in all other cases those persons only shall be deemed authorized agents within the meaning of this Act who are either advocates of one of the Supreme Courts of Justice established by Royal Charter, or authorized pleaders of the Civil Courts of the East India Company, or, by leave of the Court, Magistrate, or other person before whom the prisoner is on trial, any other person who is employed by the prosecutor or prisoner as his agent.

IV. This Act shall not be deemed to dispense with the presence of any prosecutor, or person on trial for the commission of any offence, when the presence of such prosecutor, or accused person, is now by law required.

ACT No. XVI. of 1851.

An Act for the trial of receivers of stolen property.

I. Every person who receives any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, and punished in any place in which he shall have, or shall have had, any such property in his possession, or in any place in which the party guilty of the principal felony or misdemeanor may by law be tried, or in the place where he actually received such property.

ACT No. VII. OF 1852.

An Act for amending Act XVII. of 1840 as to penalties for breaches of the Salt Laws in the Madras Presidency.

I. Heads of District Police may hear and determine cases of offences against the Salt Laws, when the value of the salt in question shall not exceed five rupees, and may inflict punishment not exceeding ten days' imprisonment with labour; or a fine not exceeding three rupees, commutable, if not paid, to imprisonment with labour for a period not exceeding ten days.

II. Whenever a Head Officer of District Police shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the Magistrate for his final orders, stating precisely the nature and extent of the punishment he recommends to be inflicted; and the Magistrate shall, at his discretion, issue his orders in writing to the Head Officer of Police, to inflict such punishment as the Magistrate may deem sufficient, not exceeding that declared in Act XVII. of 1840, recording his reasons, if his opinion is at variance with the opinion of the Head Officer of Police; or the said Magistrate shall order the said Officer of Police to forward the parties and witnesses to him for further investigation.

III. If at the expiration of thirty days from the date and day of despatch of any reference from a Head Officer of District Police to a Magistrate, no answer or order of the Magistrate shall have been received by the Head Officer of Police, then the said Head Officer of Police shall release the offenders, and the confinement, which they have so had, shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

IV. Heads of District Police shall report to the Magistrates, in the manner prescribed by Clause 2d, Section XXXIII. Regulation XI. of 1816, of the Madras Code, all punishments which they inflict by the authority vested in them by this Act.

ACT No. XXIV. OF 1852.

For amending and explaining Act XIV. of 1839, and for the better prevention of crimping.

I. Any person who by force or fraud, unlawfully detains in any place, or decoys to any place, any native of India, with intent to force, or prevail upon him, to enter into any service, or contract for service, to be performed out of the Territories under the Government of the East India Company, into which he was not minded to enter, without such force or fraud, or who by means of false imprisonment, intoxication, intimidation, force or fraud, causes any native of India to enter into any such service, or contract for service, or who attempts, by force or fraud, or by any false promise, pretence, or representation, to cause any native of India to depart either by land or water from the Territories under the Government of the East India Company, is a crimp, and guilty of crimping, within the meaning of this Act.

II. The departure of any person out of the Territories under the Government of the East India Company, by land or water, is emigration from the said territories within the meaning of Act XIV. of 1839, and of this Act.

III. After the passing of this Act no person shall be liable to the penalties of Act XIV. of 1839, for making, in good faith, any contract with any native of India, for labour to be performed in any foreign settlement on the main land of India, or for knowingly abetting or aiding any native of India in emigrating from the said territories to any such foreign settlement. Provided that if any person shall make any contract with any native of India for service or labour to be performed by such native out of the territories under the Government of the East India Company, or cause any native of India to depart from the territories under the Government of the East India Company, or knowingly aid or abet such native of India in emigrating from the said territories to any such foreign settlement, with intent that such native shall afterwards depart from India, such person shall

be deemed to be a crimp and guilty of crimping within the meaning of this Act, and proof of the subsequent departure of such native from India, from any place out of the territories under the Government of the East India Company within the period of six months from the time of the departure of such native from the said territories under the Government of the East India Company, shall be *prima facie* evidence of such intent.

IV. Every crimp within the meaning of this Act is liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine not exceeding five hundred rupees.

V. Every person who shall, by means of intoxication, false imprisonment, or intimidation, or by means of any false promise, pretence, or representation, force or decoy any native of India out of the Territories under the Government of the East India Company, or fraudulently cause any such native to depart from the said Territories shall be liable to be imprisoned for a term not exceeding three years.

VI. In every case in which under this Act imprisonment may be awarded for any offence, it shall be lawful for the Court, who may award such imprisonment, to sentence the offender to be kept to hard labour during the whole, or such period or periods, of such imprisonment, as to such Court shall seem meet.

VII. In every case in which an offender shall be liable to be imprisoned under Section II. Act XIV. of 1839, such offender shall be liable to be imprisoned, or imprisoned and kept to hard labour for a term not exceeding three months for every Native contracted with, provided that such imprisonment shall not in any case exceed six months for any one offence.

VIII. In every case in which any person shall commit an offence under Section II. Act XIV. of 1839, as explained and amended by this Act, after having been previously convicted, either before or after the passing of this Act, of an offence under that Section, such person shall be liable, upon conviction before a Criminal Court of competent jurisdiction, to be imprisoned, or imprisoned and kept to hard labour for any period not exceeding one year, and in every indictment, information or other proceeding for such an offence committed after such previous conviction, it shall be sufficient, after describing the

offence, to state that the offender was at a certain time and place convicted of an offence under Section II. Act XIV. of 1839, without otherwise describing such previous offence or conviction ; and a certificate of the previous conviction, purporting to be signed by the officer having the custody of such previous conviction, or by the deputy or legally authorized assistant of such officer, shall, with proof of the identity of the person of the offender, be sufficient *prima facie* evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed such certificate.

IX. The term " Magistrate" in Act XIV. of 1839, shall extend to Joint Magistrates, and persons lawfully exercising the powers of a Magistrate.

ACT No. XXXII. of 1852.

An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain criminal acts.

I. Whenever the local Government, or the head officer of a department or office under Government, shall be of opinion that there are good grounds for making a public enquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or police officer, subject to the jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to prosecute such officer on the part of Government in a Criminal Court, or to nominate some person to conduct such prosecution ; and it shall also be lawful for such Government or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a criminal Court of any such charge, as aforesaid, which may be brought by an aggrieved private party against any such ministerial or police officer ; and such prosecutions as aforesaid shall not be barred, or affected, by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.

II. Provided always that no Collector, Magistrate, nor head of an office in the Salt, Abkaree, or Customs department under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or officer to whom he is immediately subordinate, to institute the same.

III: No Collector, Magistrate, Judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as Judge in any such prosecution.

IV. Nothing herein contained shall be construed so as to repeal or otherwise affect Regulation IX. of 1822 and VII. of 1828, of the Madras Code, and Act XXXVI. of 1837, and the said Regulations and Acts shall remain in full force with respect to the malversations and offences in the Revenue Department to which they are applicable.

ACT No. I. of 1853.

An Act for providing in the Presidencies of Fort Saint George and Bombay, for the punishment of males of tender age for petty thefts.

I. Every Magistrate, Joint Magistrate, or First Assistant Magistrate, in either of the Presidencies of Fort Saint George or Bombay; and every Deputy or Assistant Magistrate in either of the said Presidencies, to whom the Governor in Council of the Presidency in which he is, may grant such authority, shall, on conviction of Theft of property not exceeding in value rupees fifty, if the person convicted be a male, and shall appear to him, by inspection, or other evidence, to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, sentence such person to corporal punishment with a light rattan, not ex-

ceeding ten stripes, to be inflicted on the bare palm of the hand, or through a light garment on the back.

II. In cases of sentences to corporal punishment as aforesaid, no other punishment shall be superadded, and the punishment shall be inflicted on all occasions in the presence of the officer who awards it.

ACT No. VII. OF 1853.

An act to extend the jurisdiction of Magistrates, under the 53d George 3d, Cap. 155, Sec. 105, in cases of assaults, forcible entries and other injuries accompanied with force, not being felonies.

I. The provisions of the said Act of the 53d George 3d, and of Act No. IV. of 1843, so far as the said provisions extended to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any native of India, are hereby extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the Territories under the Government of the East India Company, not being within the said towns of Calcutta or Madras, the said Islands of Bombay and Colaba, or the said settlement of Prince of Wales' Island, Singapore and Malacca, by any British subject or other person, against the person or property of any person whatever.

II. The powers in such cases given to the Magistrate of the zillah or district, may be lawfully exercised by any Joint Magistrate or other person lawfully exercising the powers of a Magistrate; in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.

Act. No. VII. of 1853.—Under 53 Geo. 3d, it was necessary, that the Magistrates should transmit their proceedings to Government, and remit fines to the Clerk of the Crown, but this was declared to be no longer necessary by Act XXII. of 1854.

Sec. I. *Act No. IV. of 1843*—Provides that appeals shall lie to same authorities as in other cases decided by Magistrates in the Provinces.

ACT No. XVIII. of 1853.

An Act for regulating the sale of spirituous liquors, &c. in Cantonments.

Whereas it is expedient to regulate the sale of spirituous liquors, wine and intoxicating drugs within Military Cantonments, It is enacted as follows:

I. If within any Military Cantonment, or within any limits around the same to which the Provisions of this Act shall be extended by an order of Government to be publicly notified, any person not amenable to Articles of War, or any Sutler or Camp follower, shall knowingly barter, sell, or supply, or offer, or attempt to barter, sell or supply, any spirituous liquor, wine or intoxicating drug, to, or for the use of any European Soldier, or to, or for the use of any European or Eurasian being a Camp follower, or a Soldier's wife, without a written license from the Officer Commanding at the Station, or from some person having sufficient authority from the Commanding Officer to grant such license, the person so bartering, selling, or supplying or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.

II. If any person convicted of an offence under Section I. of this Act, shall be convicted under that Section of an offence subsequently committed, he shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months; and in such case any spirituous liquor, wine, or intoxicating drug, within such Cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

III. If any Camp follower or Military pensioner, or the wife or widow of any Soldier, Camp follower or Military pensioner, shall within such Cantonment or limits, remove, convey, or have in his or her possession, any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit, to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty rupees, and for any subsequent offence to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

IV. Section III. of this Act shall not apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

V. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any police officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate or other officer having jurisdiction to punish the offender.

VI. Any person who shall obstruct any police officer in making any arrest, or seizure, under this Act, and any police officer, who shall not, without unreasonable delay, take the person, or thing so arrested, or seized, before a Magistrate, or other officer having jurisdiction to punish the offence, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees.

VII. Any police officer, who, under color of this Act, shall without probable cause, make any arrest, or seizure, without a warrant, shall, on conviction before a Magistrate, be liable, to a fine not exceeding one hundred rupees, which fine, or any part of it, may be ordered by the Magistrate to be paid to the person aggrieved.

VIII. No police officer shall be competent to act under the provisions of Section V. of this Act, unless he shall have a general or special authority so to do, granted to him in writing by the Command-

ing officer, or other officer empowered by him to grant the same, or by the officer in the immediate charge of the police.

IX. In case of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same, or any part thereof, to be confiscated; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

X. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a Magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

XI. No appeal shall lie from any order or conviction under the provisions of this Act.

XII. European British subjects, shall be amenable to the jurisdiction of a Magistrate for any offence against the provisions of this Act.

XIV. This Act shall not apply to the sale, or supply of any articles for medicinal purposes, by recognized medical practitioners, chemists or druggists.

XV. In the construction of this Act, the word "Cantonment" shall include a "Fortress or Garrison" or *Military bazaar station*; the word "Soldier" shall include any Non-Commissioned Officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of

the Peace ; the words " spirituous liquor " shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

XVI. This Act shall not take effect within any limits around a Cantonment which shall be specified in an order of Government, before the expiration of one month from the date of the notification of such order ; and any order for extending the provisions of this Act to any limits around a Cantonment, may from time to time be varied, altered or suspended by Government.

ACT No. VII. of 1854.

An Act for the apprehension within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.

Whereas it is expedient to provide for apprehending and delivering up to justice, persons whether subjects of the British or of any Foreign Government, who shall take refuge or be found in any part of the territories under the Government of the East India Company, and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty, or in the territories of any Foreign Prince or State ; to facilitate the execution in any part of the territories under the Government of the East India Company of warrants issued by competent officers in any other parts thereof ; and to enable the Government of any Presidency or place within such last mentioned territories to carry out treaties entered into by or on behalf of Her Majesty, or the East India Company with any Foreign Prince or State ; It is enacted as follows :—

I. If requisition be made by, or by the authority of, the person or persons for the time being, administering the Executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India, to deliver up to justice

any person accused of having been guilty of any heinous offence in any part of Her Majesty's dominions, subject to the Government making the requisition, and who shall be, or shall be supposed to be, in any part of the British territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made, if it shall see fit so to do, to issue an order in writing for enquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name, or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed, or any of them, to enquire into the truth of the charge, and to proceed in pursuance of this Act.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

IV. If the evidence adduced shall in the judgment of the Magistrate or Justice of the Peace be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that a warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:—

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of

V. The warrant of any Magistrate or Justice of the Peace, having jurisdiction in any part of the territories under the Government of the East India Company, for the arrest of any person charged with having committed any offence, whether such warrant be issued under the provisions of this Act or not, may be executed within the jurisdiction of any other Magistrate or Justice of the Peace, having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect :

To the Nazir [or other Officer, as the case may be] of the Zillah of

“ This warrant may be executed in the zillah or district of ”
(describing the zillah or district of the endorsing Magistrate or Justice of the Peace) by any of the officers to whom the same is directed or by [describing by his name of office the officer, to whom a similar warrant, issued by the endorsing Magistrate or Justice of the Peace, would be directed.] .

VI. The Magistrate endorsing a warrant in pursuance of the Provisions of Section V. of this Act, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant ; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the endorsement, in the same manner and to the same extent only, as if the warrant had been executed within his own jurisdiction.

VII. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the officer be authorized to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged

to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace, before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail, for an offence committed within his own jurisdiction. If after making as full an enquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justice of the Peace within the territories under the Government of the East India Company will enable him to make, the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government; if after making such enquiry the circumstances shall not in the judgment of the Magistrate or Justice of the Peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

VIII. If the offence charged be one committed out of the British territories in India which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly, and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken, on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall from time to time appoint.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time

being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such persons shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last mentioned Government shall have the same powers as the Government who made the order.

X. If the person accused of the offence mentioned in any such order of Government, be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution, the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused, and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the Government of the East India Company, that particular circumstances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named by the Government. In the latter case the prisoner shall be sent, or if the offence be bailable, shall give bail, to appear before such last men-

tioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

XII. The Government by whom any order under Section I. of this Act shall be made, may, if they think fit so to do, direct that copies of any depositions or exhibits which shall have been laid before them and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial officer of the territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused and such direction shall be sufficient authority for receiving the same in evidence.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions and documents used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged, or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to some person authorized by the Government or officer making the requisition, to receive and take charge of him. In cases falling within the provisions of Act I. of 1849, the Government may order the person accused to be tried under that Act.

XV. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered, shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused

shall be conveyed in custody through such last mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another; and as soon as he shall have been conveyed to the frontiers of the territories under the Government of the East India Company, he shall be delivered over to some person authorized by the Government making the requisition to receive and take charge of him. If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest Magistrate who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire, as such Magistrate may think necessary, and suitable to his station in life.

XVI. Any Magistrate or Justice of the Peace acting under the provisions of this Act, shall issue all necessary warrants, orders and directions for carrying this Act, and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all magistrates and officers acting in pursuance of this Act, shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.

XVII. In case any person arrested under this Act shall escape out of custody, he may be re-taken in any part of the territories under the Government of the East India Company, in the same manner as if he had escaped from custody under process for an offence committed in that part of such territories, in which he shall be found.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of compe-

tent jurisdiction, in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant and proof of the signature of the officer signing it, and of his authority, to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused, and after his apprehension may proceed to commit, or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI. of this Act, out of such territories shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may, without an order of Government, be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XX. If any person imprisoned under this Act, shall not either be delivered up, or discharged, or brought to trial, within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to the Court why such discharge ought not be ordered.

Provided that no such order shall be made until after notice of the application, or of the intention to make the same, shall have been given to Government, or to the Secretary, or one of the Secretaries thereof.

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions, murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, burglary, knowingly receiving property obtained by dacoity, robbery or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a village, house, or town, forgery, or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement, whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence, for which by any treaty in force between Her Majesty or the East India Company, and any Foreign Prince or State, Her Majesty, or the East India Company, shall at the time of making any requisition as aforesaid, be bound to deliver up offenders to the Foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East India Company under the provisions of Act No. 1. of 1849.

XXIII. If by any such treaty, Her Majesty, or the East India Company shall be bound to deliver up to any Foreign Prince or State, any person liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person and for making any preliminary enquiry into the charge contained in the requisition, as

it shall think fit, and any such order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXV. Unless where a contrary intention appears from the context, the word "Government, as used in this Act, shall be deemed to mean and include the Governor General of India, in Council or the person or persons administering the executive Government, in any Presidency or place within the British territories in India. The words "British territories in India" shall include any part of the territories under the Government of the East India Company. The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.

ACT No. XII. OF 1854.

An Act for conferring criminal jurisdiction upon District Moonsiffs in the Presidency of Madras.

I. It shall be competent to the Governor in Council of Fort St. George, by an order in writing, to empower one or more of the District Moonsiffs, in any zillah of the said Presidency, to hear and determine complaints or prosecutions for petty offences and for petty thefts as defined in Sections XXXII. and XXXIII. of Regulation IX. of 1816, and for petty offences of the description specified in Clause 1, Section VIII. Regulation XIII. of 1832, and to inflict upon the offenders the punishments which Magistrates are authorized to inflict for the same offences by the said Sections of Regulation IX. of 1816, and by Clause 2, Section VIII. Regulation XIII. of 1832.

II. In bringing criminal cases before a District Moonsiff for trial under this Act, the District Police shall be subject to the same laws

and rules as are now applicable to them in bringing similar cases before a Magistrate.

III. Prisoners under trial by the District Moonsiffs under the provisions of this Act, shall remain in the custody of the Police.

IV. All laws and rules now in force relating to the mode of procedure in such criminal cases in the Courts of the Magistrates, shall also apply to, and regulate the mode of procedure in such criminal cases in the Courts of the District Moonsiffs.

V. Provided always, that in trials or investigations under this Act, the District Moonsiffs shall take down the complaint and defence, as well as the oral evidence fully in writing, and shall receive all relevant and material documentary evidence properly tendered, and file the same, or a copy thereof, or such parts thereof as may be relevant.

VI. The powers vested in Sessions Judges by Section XXXVII. Act VII. of 1843, and the Regulations therein referred to, to review, alter and overrule the proceedings, orders and judgments passed by Sudder Ameen in criminal cases, shall extend to the proceedings, orders and judgments passed by the District Moonsiffs under this Act.

VII. It shall be competent to the Governor in Council, when he shall empower one or more of the District Moonsiffs in any zillah to exercise criminal jurisdiction under this Act, to order at the same time that the provisions of Clauses 2, 3 and 4, Section IV. Regulation IV. of 1821, and of Act XXXIII. of 1837, shall cease to have any operation in that zillah, or in the parts of it in which such criminal jurisdiction is to be exercised by a District Moonsiff.

Sec. VII. Cl. 2, 3 and 4, &c.—That is to say Police officers will not be allowed to refer petty cases tried by themselves to the Magistrate for enhancement of punishment because an authority will be at hand competent to pass an adequate sentence.

ACT No. XXIII. OF 1854.

An Act for the suppression of outrages in the District of Malabar, in the Presidency of Fort Saint George.

I. It shall be lawful for the Governor in Council of Fort Saint George, whenever he shall see fit by a proclamation published in the Fort Saint George Gazette, from time to time to declare the whole or any part or parts of the District of Malabar to be subject to the operation of all or any of the following provisions.

II. Any Mopla, who murders, or attempts to murder any person belonging to any other class, or who takes part in any outrage directed by Moplas, against persons of any other class, wherein murder is committed, or is attempted to be committed, or is likely to be committed, and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist, or incite or encourage other persons to join or assist in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by the existing law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government, by the sentence of the Court by which he is tried; and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court which would have had cognizance of the offence, if the offender could have been brought to trial, to proceed on the application of the Magistrate to hold an inquest into the circumstances of the death of the offender; and on proof of his having been killed as aforesaid, or of his having died of wounds received as afore-

Act No. XXIII. of 1854.—A retrospective effect was given to this Act, and its provisions extended to all murders, &c. committed by Moplas, by Act No. V. of 1856.

This Act was called into operation by Proclamation, 18th Sept. 1856.

said, to adjudge that the whole of his property shall be forfeited to Government.

III. If any Mopla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court by which such offender is convicted, by its sentence, to direct the body of such offender to be burned or buried within the precincts of the Jail, as it shall see fit; and in like manner, if any Mopla shall be killed in the act of committing any such offence as aforesaid, or having committed any such offence as aforesaid shall be killed in resisting a lawful attempt to apprehend him; it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the Jail, as the said Magistrate shall see fit.

IV. The Governor in Council shall have with respect to the confinement or trial of any person charged with, or suspected of, an intention to commit any offence punishable under this Act, the powers which are vested in him by Regulation II. of 1819, of the Madras Code, and by Act 5 of 1841, respectively, regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of the said Regulation and Act, respectively shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this Section.

V. The Magistrate of the District may cause any Mopla or other person, against whom there are in his judgment grounds of proceeding under the last Section, to be apprehended, and after such enquiry as he may think necessary, may detain such Mopla or other person in safe custody until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

VI. If with the previous consent of the Governor in Council any person against whom the Governor in Council shall think fit to proceed under Section IV, shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the continent of India, or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council remain or return within such limits, he

shall be liable to be punished with imprisonment, with or without hard labor, for a period which may extend to seven years, or with fine or both.

VII. Whenever any such outrage, as is specified in the 2nd Section of this Act, the same being punishable under this Act, shall have been committed by any Mopla, or Moplas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall authorize from all the Moplas within the *umshum*, or the several *umshums*, to which the perpetrator or perpetrators, or any one of such perpetrators of such outrages, shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Moplas within such unshum or unshums, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage, for the pecuniary loss occasioned, or likely to be occasioned, by such death; and, subject to such compensation, to the use of the Government.

VIII. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the public revenue may be realized by a Collector; and no action shall lie in any civil court against the Magistrate in respect of any fine imposed, or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

IX. It shall be lawful for the Governor in Council by such proclamation as aforesaid from time to time, to withdraw from the operation of the provisions of this Act any part or parts of the said districts which he may have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

ACT No. XXIV. OF 1854.

An Act to prohibit the possession of certain offensive weapons in Malabar.

I. The use of the *Ayudha Cutty* or war knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar; and every person possessing a weapon of the description so designated, or any similar weapon, is required to surrender it, on or before the date which shall be appointed for the above provisions taking effect, and according to such orders as shall be published in that behalf by the Magistrate.

II. After such date any person who shall be found in possession of an *Ayudha Cutty* or war-knife, or of a similar offensive weapon, or who shall purchase or sell, or manufacture, or cause to be manufactured, any *Ayudha Cutty* or war-knife, or similar weapon, shall be liable on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment with or without hard labor, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated.

III. It shall be lawful for the Magistrate of Malabar, to cause search to be made by his Police officers acting under his warrant; in any house or other place in which any *Ayudha Cutty* or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act, and any such *Ayudha Cutty* or war-knife, which shall be found, may be seized and confiscated. It shall also be competent to the Magistrate, at his discretion, to delegate to any of his European Assistants the powers conferred by this Section. Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police officer charged with such warrant, shall be liable to the same penalties, as if such person had opposed or resisted the execution of a warrant for the search after stolen goods.

ACT No. II. OF 1855.

An Act for the further improvement of the Law of Evidence.

Whereas it is expedient further to improve the Law of Evidence. It is enacted as follows :

I. Act No. X. of 1835 is hereby repealed.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice and all persons having by law, or consent of parties, authority to take evidence, shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834, by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *prima facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

IV. Every Court shall take judicial notice of its own members and officers respectively, and of their deputies and subordinate officers or assistants, and also of all officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders and other persons authorized by law to act before it.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories:—Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts, or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories, to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

VI. All such Courts and persons aforesaid shall take judicial

notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title, and national flag of every Sovereign or State recognized by the British Crown. In all the above cases, such Court or person may resort for its aid to appropriate books or documents or reference.

VII. Any *Government Gazette* of any Country, Colony, or dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *prima facie* proof of any fact of a public nature which they were intended to notify.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations hereafter to be passed, of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *prima facie* evidence of the truth of the fact recited.

X. The *Gazette* or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue may be received by any such Courts or persons as aforesaid as *prima facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

XI. All Courts and persons aforesaid may, on matters of Public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or person shall consider to be of authority on the subject to which they relate.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Sta-

tutes, Code, or other written Law of such Country, as also printed and published Books of Reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid, as evidence of the Law of such Foreign Country.

XIII. All Maps made under the authority of Government, or of any public municipal body, and not made for the purpose of any litigated question, shall *prima facie* be deemed to be correct, and shall be admitted in evidence without further proof.

XIV. The following persons only shall be incompetent to testify :

1. Children under seven years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly ; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

XV. Any person who, by reason of immature age or want of religious belief, or who by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

XVI. The provisions in the last preceding Section as to witnesses, shall apply to testimony given by affidavit or otherwise in writing, as well as to testimony orally delivered.

XVII. Any such witness wilfully giving false evidence, shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

XVIII. No person shall, by reason of any interest in the result

of any suit, or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

XIX. Any party to a civil suit or other proceeding of a civil nature, shall be competent, and may be compelled, to give evidence as a witness therein, either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act No. XIX. of 1853.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication, and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party however offer himself as a witness, he shall be bound to produce any such

Sec. XIX.—Act XIX. of 1853. This applied solely to Bengal. These provisions were however embodied in Act X. of 1855, and made applicable to Madras—dealing wholly with Civil procedure it is unnecessary to insert them in this Work.

writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

XXIII. Every witness summoned to produce a document, shall, if the same be in his custody, possession, or power, be bound to bring it or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading or putting it in as evidence, or to the disclosure of the contents thereof: the validity of any such objection made by the person producing the document, shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence, which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

XXIV. A Barrister, Attorney, or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client, and the Barrister, Attorney, or Vakeel, shall be bound upon examination to disclose any such matter.

XXV. Any person present in Court, whether a party or not, may be called upon, and compelled by the Court, to give evidence, and produce any document then and there in his actual possession, or in his

power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

XXVI. Any person, whether a party to the suit or not, may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced, instead of attending personally to produce the same.

XXVII. The Rules of Evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.

XXVIII. Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in such Court, or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice, or of a single witness in the case of perjury.

XXIX. Where dying declarations are evidence, they shall be received, if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained, at the time of making it, hope of recovery.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness, to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge or Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or

Superintendent for the suppression of Thugge or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge or other Officer above mentioned, under his hand or the official seal of the Court, or under the hand or official seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *prima facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit, or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose, such witness to a penalty or forfeiture of any kind.

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

XXXVIII. The admission of a party to an attested instrument, of its execution by himself, shall be as against him sufficient *prima facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

XXXIX. Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing, *bonâ fide* and permanently, beyond the reach of the process of the Court, or cannot after diligent search be found.

XL. Any entry in any books proved to have been regularly kept in the course of business, or in any public office, so far as such entry merely refers to and tends to identify by name, description, number, or otherwise, any bank notes or other securities for the payment of money, or other property, and the payer in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose, if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

XLI. Any receipt in writing, acknowledging the receipt of any money, valuable securities of goods, shall on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favor such receipt would operate as a discharge, or to

whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.

XLII. Whenever a receipt would be admissible under the preceding Section, if given by a principal, a receipt given by an agent or servant of such principal, shall in like manner be evidence, upon proof of the authority to give such receipt.

XLIII. Books proved to have been regularly kept in the course of business, or in any public office, shall be admissible as corroborative, but not as independent proof of the facts stated therein.

XLIV. The following documents may be admitted as corroborative evidence;—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

XLVIII. On an enquiry whether a signature, writing, or seal, is

genuine, any undisputed signature, writing or seal of the party, whose signature, writing or seal is under dispute, may be compared with the disputed one, though such signature, writing or seal be on an instrument which is not evidence in the cause.

XLIX. Any Power of Attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit or proceeding is depending, may be proved by the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public or any Court, Judge, Consul, or Magistrate.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and dispatched, and the Letter Book is produced, and it is proved that the letter was dispatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the dispatch of that letter according to the usual course of business.

LI. Any book proved to have been kept for marking the dispatch and receipt of letters, containing an entry of the dispatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.

LVI. Whenever, by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *primâ facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character or authority, which it is directed to have, or from which it is directed to proceed.

LVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial, or reversal of any decision in any

case, if it shall appear to the Court before which such objection is raised, that independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

ACT No. XVIII. OF 1855.

An Act to remove doubts relating to the power to grant pardons and reprieves, and remissions of punishments in India.

I. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the territories in the possession, and under the Government of the East India Company, have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature, or by any other Court or officer exercising jurisdiction within the said territories.

II. Nothing in this Act shall be construed to interfere with the provisions contained in the Statutes of the Imperial Parliament, 16 and 17, Vic. c. 95 and 17 and 18, Vic. c. 77, or any other statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant Governors and other persons therein named; and in every such case, the aforesaid power of granting pardons and reprieves and remissions of punishment in case, and so far as the same may be excepted from the authority of the said Lieutenant Governors or other persons, may be exercised by the Governor General of India in Council.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above mentioned.

ACT No. XXIV. OF 1855.

An Act to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.

I. No European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of the East India Company, to be transported.

II. Any person who, but for the passing of this Act, would by any law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered by any such Court, to be transported, shall, if a European, or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows; (that is to say)

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of 4 years.

Instead of any term of transportation exceeding seven years and not exceeding 10 years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than 6 and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where at the discretion of the Court one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like

discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

III. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation, but where such other punishment may be awarded at the discretion of the Court instead of transportation, or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

IV. If any offender sentenced by any Court within the said territories to the punishment of death, shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

V. It shall be lawful for the Governor General of India in Council, or for the person or persons for the time being administering the executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section, after the expiration of the term of transportation to which he was sentenced.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order, from time to time direct, and may, during such time, be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard

labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided that the time of such intermediate imprisonment and the time of removal from one prison to another, shall be taken and reckoned in discharge, or part discharge, of the term of the sentence.

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

VIII. The person or persons for the time being administering the executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment for a term exceeding one year, whether with or without hard labour, may with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confined to any other public prison or place of confinement within any part of the said territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the jail to which the prisoner is removed.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions in all respects, as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment, or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India, by order in writing, to signify to any Justice of the Peace or Magistrate, that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose, in any part of the said territories, and shall have the same force and effect in any place within such territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate or other lawful authority having Jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the Zillah or District in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal for the recommitment of such convict to the prison or place of confinement from which he was released by virtue of the said license; and such convict shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

XII. If a license be granted under Section IX. of this Act upon any conditions specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or knowing of the revocation of such license shall neglect forthwith to surrender himself, or shall conceal himself, or endeavour to avoid being apprehended, he shall be liable, upon conviction, to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

XIII. Nothing in this Act, is intended to alter or affect the provisions of the 12 and 13 Victoria chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th August 1833, or which may hereafter be passed.

XIV. Any sentence or order upon any person describing him as a European or American, shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

XV. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject, words in the singular number, or the masculine gender, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

ACT No. XXV. OF 1855.

An Act to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.

I. When the Governor in Council of Fort Saint George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII. of 1827 of the Code of Fort Saint George, it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons committed by that Court for offences subject to his jurisdiction.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore, a prisoner charged with a crime or misdemeanor subject to the jurisdiction of that Court, he shall give immediate notice of the commit-

Act No. XXV. of 1855.—A civil and criminal court presided over by a Principal Sudder Ameen under Regulations VII. and VIII. of 1827, was established at Ootacamund by order of Government, dated 30th October 1827—It is now in the contemplation of the Legislature to erect it into a Court presided over by a Subordinate Judge under Regulations I. and II. of 1827.

ment to the Session Judge, and the Session Judge shall within two months from the date of the commitment, proceed to hold a Court at Ootacamund for the trial of such prisoner ; and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

III. It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court, constituted according to Regulation II. of 1827 ; and also by appointment of the Government of Fort Saint George, all the powers of a Joint Magistrate.

ACT No. I. OF 1856.

An Act to prevent the sale or exposure of obscene books and pictures.

I. Whoever, within the territories in the possession and under the Government of the East India Company, in any shop, bazar, street, thoroughfare, high-road, or other place of public resort, distributes, sells, or offers or exposes for sale, or wilfully exhibits to public view, any obscene book, paper, print, drawing, painting, or representation ; or sings, recites, or utters, any obscene song, ballad, or words, to the annoyance of others ; shall, upon conviction, as hereinafter provided, before a Magistrate, be liable to a fine not exceeding 100 rupees, or to imprisonment, with or without hard labour, for a period not exceeding three months, or to both.

II. It shall be lawful for any person whatsoever, to apprehend any person found committing any of the above named offences, and forthwith to deliver him to a Police officer of the place where he shall have been apprehended, to be taken before any Magistrate having jurisdiction in such place ; and it shall be the duty of every Police officer to use his best endeavours to apprehend and to convey before a Magistrate any person that he shall find so offending, together with such obscene books, papers, prints, drawings, paintings, and representations, as may be found with such person.

III. Upon information given or charge preferred, upon oath or

solemn affirmation, a Magistrate, within whose jurisdiction the offence may have been committed, may issue a summons for the appearance, or a warrant for the apprehension, of any person accused of any of the offences enumerated in Section I., and such Magistrate shall proceed under the rules of the general law to hear and determine the case. Provided that it shall not be necessary to require the presentation of a complaint in writing, nor to require the attendance of any complainant, any thing contained in Section VI. Regulation IX. of 1807, of the Bengal Code, or in Section XV. of Regulation IX. of 1816 of the Madras Code, or any other law, to the contrary.

IV. Every Magistrate is required to destroy, or cause to be destroyed, all such obscene books, papers, prints, drawings, paintings, or representations, as may come within his power or control.

V. After the passing of this Act, it shall not be lawful for any person to import into any part of the aforesaid territories any obscene book, print, or picture; and every such book, print, or picture shall be forfeited, and shall be seized by any officer of Customs, and the same shall be destroyed by such officer.

VI. All orders or sentences passed under this Act shall be appealable in the usual manner under the Regulations and Laws that are or may be in force relating to appeals from the orders of Magistrates or other officers exercising the powers of a Magistrate.

VII. Nothing contained in this Act shall apply to any representation, sculptured, engraved, or painted, on, or in any temple, or on any car used for the conveyance of idols.

VIII. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits: and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of certiorari: and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

IX. The following words in this Act shall have the meanings

hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

The word “Magistrate” shall include Joint Magistrates, and persons lawfully exercising the powers of a Magistrate, and Justices of the Peace.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

ACT No. II. OF 1856.

An Act to enable Magistrates and certain other Officers to take cognizance of certain offences without requiring a written complaint.

I. So much of Section V. Regulation IX. of 1793, of Section V. Regulation VI. of 1803, of Section VI. Regulation IX. of 1807, of the Bengal Code, and so much of Section XV. Regulation IX. of 1816, of the Madras Code, and so much of any other enactment, as require a complaint in writing to be preferred to a Magistrate, or the attendance of a complainant, shall not apply to any offence which affects the public.

II. A Magistrate or other officer having jurisdiction over such offence may, on the information of a Police officer or other person, to be given on oath or affirmation, or on his own personal knowledge, (having first recorded the grounds thereof in his own hand-writing), proceed against any person for such offence in the same manner as if a complaint in writing had been preferred and duly deposed to.

III. All proceedings under this Act shall be subject to the like appeal as other proceedings of such Magistrates and officers.

ACT No. V. OF 1856.

An Act to give effect to Act XXIII. of 1854 from the time of its promulgation in the District of Malabar, and to extend the application thereof in future.

II. The provisions of Act XXIII. of 1854 shall apply to any Mopla who murders or attempts to murder any person ; and to any Mopla who takes part in any outrage directed by Moplas against any person, wherein murder is committed, or attempted to be committed, or is likely to be committed ; and to any person who shall procure or promote the commission of any such crime as aforesaid,—or shall incite or encourage any other person or persons to commit the same, or who, after having committed, or having been accessory to any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him, or who shall join or assist, or incite, or encourage other persons to join or assist in such resistance.

III. The said Act XXIII. of 1854 and this Act shall be read and construed together as one Act.

ACT No. VIII. OF 1856.

An Act for the better control of the Gaols within the Presidencies of Fort St. George and Bombay.

II. The control of all Gaols in each of the said Presidencies shall be vested in the Governor in Council ; and it shall be lawful for the said Governor in Council, with the previous sanction of the Governor General of India in Council, to the creation of the office, to appoint such person or persons as he shall think fit to inspect and superintend the said Gaols subject to the orders of the said Governor in Council, and to vest in such persons or persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

ACT No. XI. OF 1856.

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty, and of the East India Company, in India.

I. If it shall appear that any officer or soldier, being a deserter from the said Forces, has been concealed on board any Merchant vessel, and that the master, or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred rupees—Provided always, that no conviction for such offence as is hereinbefore described, shall be lawful, unless the same shall be stated in the charge which the party is called upon to answer; and in such charge, it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

II. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

III. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on

the merits ; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of certiorari ; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment, shall be aided by what so appears in such depositions.

IV. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer having authority in that behalf, from committing for trial any person who shall be charged with any offence punishable under Act No XIV. of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

V. Whenever, on information given on oath, or solemn affirmation where by law a solemn affirmation may be used instead of an oath, to the Commanding Officer of any Fort, Garrison, Station, Regiment, or Detachment, at any port or place within the territories of the East India Company, in which no person lawfully exercising Magisterial powers can be found, which oath or affirmation the several persons abovenamed shall severally under this Act have power to administer ; or whenever, on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any European Officer or Soldier belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such Commanding Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a warrant authorizing the person or persons to whom such warrant may be addressed, to enter into and search at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such Officer or Soldier, and to

detain him in custody in order to his being dealt with according to law.

VI. The warrant to be issued under the preceding Section may be addressed to any European Officer or Soldier of the said Forces, or to all Constables, Peace officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate and acting in the execution of this Act, and all such persons shall be bound to execute, perform, and obey such warrant.

VII. Every person who shall be apprehended under any warrant, under the 5th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied, either by the confession of such person, or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of the Regiment, Corps, or Detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the Commanding Officer of the nearest Military Station, in order that he may be dealt with according to law.

ACT No. XVII. OF 1856.

An Act to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same.

I. Any Criminal process whatever, including summonses, subpoenas, and search warrants, as well as warrants of arrest, issued by any Magistrate having jurisdiction in any part of the territories under the Government of the East India Company, may be executed within the jurisdiction of any other Magistrate having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Ma-

gistrate within whose jurisdiction it may be executed, previously endorsed thereon. Provided that no summons or subpœna shall be issued by a Magistrate to compel the attendance of a defendant or witness from any place beyond the local limits of his jurisdiction, unless special grounds shall be proved to the satisfaction of the Magistrate in support of the application, which grounds shall be recorded before the summons or subpœna is issued.

II. The Magistrate endorsing any process under this Act shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the process ; but any Magistrate illegally or improperly issuing the same shall be liable for any act, in pursuance of the endorsement, in the same manner and to the same extent only, as if the process had been executed within his own jurisdiction.

III. The provisions of Act No. VII. of 1854 and of this Act do and shall extend and apply to any warrant or other process of any Magistrate having jurisdiction in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras and Bombay respectively, which shall be executed within those limits. Provided that if a Magistrate having jurisdiction within those limits, shall object to endorse any warrant or other process, on account of any apparent defect therein, or for any other cause, he shall refer such warrant or other process to a Judge of the Supreme Court, who shall deal therewith according to the provisions of Act No. XXIII. of 1840.

IV. The word " Magistrate " as used in this Act, includes a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate and also a Justice of the Peace.

Sec. II. Act No. XVII. of 1856.—This Act refers solely to processes issued by Magistrates and Justices of the Peace ; the procedure of Police Officers in such matters is still regulated entirely by Sec. XXXV. Reg. XI. of 1816. That enactment treats of offenders flying from the operation of process, &c. *intended* to be executed within the jurisdiction of the officer issuing it. Act No. XVI. of 1856 contemplates processes originally designed to have operation in another jurisdiction.

ACT No. III. OF 1857.

An Act relating to Trespasses by Cattle.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to cultivators and occupiers making such seizures.

III. Pounds shall be established at the thanahs or district Police stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages by which every pound is to be used, shall be determined and notified by the Magistrate.

IV. The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided that in the Presidencies of Fort Saint George and Bombay, the heads of villages and Police Patells shall be ex-officio the keepers of village pounds.

V. When cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the cattle until disposed of as hereinafter directed.

VI. For every head of cattle impounded as aforesaid, a fine shall be levied according to the following scale :—

Camel or buffaloe.....	Annas	8
Horse or tattoo, bull, bullock or cow....	„	4
Calf or ass.....	„	2
Sheep or goat.....	„	1

and no cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

VII. If the owner appear and claim the cattle, they shall be delivered to him on payment of the prescribed fine, together with the expense of feeding the cattle at such rates as may from time to time be fixed by the Magistrate ; and the owner, on taking back his cattle, shall sign a receipt for them in the register kept by the pound-keeper. A schedule of the fines, and of the rates of charge for feeding cattle shall be stuck up in a conspicuous place on, or near to, every pound.

VIII. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or District Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village and at the market place, nearest to the place of seizure. If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction, by the Darogah or District Police Officer, or an Officer of his establishment deputed for the purpose.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses, by the Darogah or other Officer as aforesaid ; and the remaining cattle and the balance of the purchase money if any shall be delivered to the owner, together with an account showing the number of cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of ; and the owner shall grant a receipt for the cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV. of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any cattle at a sale under this Act.

XI. When cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received by the pound-keepers under Section VII. shall be transmitted to the Magistrate by the Darogah, or District Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and if no claim to them be preferred and established within that period, shall at its expiry, dispose of them as hereinafter provided.

XII. The sums received on account of fines and the unclaimed proceeds of the sale of unclaimed cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to provide keepers under the orders of the local Government, or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

XIII. Every person who shall forcibly oppose the seizure of cattle doing damage to land, or to crops or other produce of land, or shall forcibly rescue the same after seizure, either from a pound, or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding five hundred rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV. Regulation XX. of 1817 of the Bengal Code, Section XXVII. Regulation XI. of 1816, of the Madras Code and Section XLIII. Regulation XII. of 1827, of the Bombay Code.

XIV. Any person whose cattle shall have been seized and detained as doing damage to land or any crop or produce thereon, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint, Deputy, or Assistant Magistrate, or other officer having criminal jurisdiction, authorized to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which case the

substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other officer as aforesaid, if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate or other officer as aforesaid shall award to the complainant such damages not exceeding in any case the sum of one hundred rupees, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the cattle; or if the cattle have not been released, the Magistrate or other officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act, shall be paid by the party who made the seizure. Moonsiffs and other Judicial officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like, and all the foregoing provisions of this Act shall be applicable to such seizures.

XVI. Village and other Police Officers shall convey to the pounds established under Section III. of this Act all cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of cattle seized as trespassing and doing damage, shall be applicable to all cattle impounded as aforesaid.

XVII. When any person commits mischief by causing cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorized to seize cattle

under Section II. of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce ; and any fine which shall be so adjudged may be recovered by sale of the cattle by which the trespass was committed, or any portion of them, whether the cattle were seized in the act of trespassing or not, and whether such cattle are the property of the person convicted of the offence or were only in his charge when the trespass was committed.

XVIII. Any person being an owner or keeper of pigs, who, through neglect or otherwise, shall damage, or cause or permit to be damaged any land, or any crop or produce of land, by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten rupees. All sums recovered under this and the last preceding Section may be appropriated in whole or in part to compensate the complainant for damage proved to the satisfaction of the Magistrate.

XIX. Nothing contained in this Act shall be held to prohibit any person whose crops or other produce of land shall have been damaged by trespass of cattle, from instituting a suit for the recovery of damages in any competent Court. Provided that any compensation which may have been paid to any such person by order of the Magistrate shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

XX. The local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

XXI. In the construction of this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular, words importing the masculine gender shall include females ; the word " Magistrate " shall include a Joint Magistrate or other officer lawfully exercising the powers of a Magistrate, the expression " Darogah or District Police Officer " shall in the North Western Provinces of the Presidency of Fort William include a Tahsildar or Naib Tahsildar entrusted with Police powers.

ACT No. XI. OF 1857.

An Act for the prevention, trial, and punishment, of offences against the State.

Whereas it is necessary to make due provisions for the prevention, trial, and punishment, of offences against the State ; It is enacted as follows :—

I. All persons owing allegiance to the British Government who, after the passing of this Act, shall rebel, or wage war against the Queen or the Government of the East India Company, or shall attempt to wage such war, or shall instigate or abet any such rebellion, or the waging of such war, or shall conspire so to rebel or wage war, shall be liable, upon conviction, to the punishment of death, or to the punishment of transportation for life, or of imprisonment with hard labor for any term not exceeding fourteen years ; and shall also forfeit all their property and effects of every description. Provided that nothing contained in this Section shall extend to any place subject to Regulation XIV. of 1827 of the Bombay Code.

II. All persons who shall knowingly harbour or conceal any person who shall have been guilty of any of the offences mentioned in the preceding Section shall be liable to imprisonment, with or without hard labor, for any term not exceeding seven years, and shall also be liable to fine.

III. *Clause 1.*—Whenever the Executive Government of any Presidency or place within the said territories shall proclaim that any district subject to its Government is or has been in a state of rebellion, it shall be lawful for any such Government to issue a Commission for the trial of all persons who shall be charged with having committed, within such district, after a day to be specified in the Commission, any of the crimes mentioned in the preceding Sections or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said district mentioned in the Commission, and may there try any person for any

of the said crimes committed within any part thereof; it being the intention of this Act that the district mentioned in the Commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

IV. It shall be lawful for the Executive Government, by such Commission to direct that any Court held under the Commission shall have power, without the attendance or futwa of a law officer, or the assistance of assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes, any sentence warranted by law for such crime; and that the judgment of such Court shall be final and conclusive; and that the said Court shall not be subordinate to the Sudder Court.

V. If a Commission be issued under the authority of this Act, any Magistrate within the district which is described in the Commission, may commit persons charged with any of the aforesaid crimes within such district, for trial before a Court to be held under this Act.

VI. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

VII. Whenever the Executive Government shall deem it necessary for the public safety, it shall be lawful for such Government to declare, by proclamation, that from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes, or any specified description of arms or instruments aforesaid, within any district mentioned in the proclamation.

VIII. After the day named in the proclamation, whoever shall carry, or have in his possession, any arms or other such instrument as aforesaid, contrary to the proclamation, shall be liable, on conviction before a Magistrate to a fine not exceeding fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument as aforesaid shall be confiscated.

IX. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instru-

ment as aforesaid, kept contrary to the proclamation, may be found ; and any such arms or instrument may be seized and confiscated.

X. Nothing in Sections VII. VIII. and IX. of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

XI. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate, and any Assistant to a Magistrate or Deputy Magistrate, specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

ACT No. XIV. of 1857.

An Act to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State.

Whereas it is necessary to make further provision for the trial and punishment of persons who endeavour to excite mutiny and sedition among the forces of the East India Company, and also for the trial of offences against the State : It is enacted as follows :—

I. Whoever intentionally seduces or endeavours to seduce any Officer or Soldier in the service or pay of the East India Company from his allegiance to the British Government or his duty to the East India Company, or intentionally excites or stirs up, or endeavours to excite or stir up, any such Officer or Soldier, or any Officer or Soldier serving in any part of the British Territories in India in aid of the Troops of the British Government, to commit any act of mutiny or sedition, and whoever intentionally causes, or endeavours to cause, any other person to commit any such offence—shall be liable upon conviction to the punishment of death, or to the punishment of transportation for life, or of imprisonment with hard labor for any term not exceeding 14 years ; and shall forfeit all his property and effects of every description.

II. Whoever shall knowingly harbour or conceal any person who shall have been guilty of any offence mentioned in the preceding Sec-

tion, shall be liable to imprisonment with or without hard labor, for any term not exceeding seven years, and shall also be liable to a fine.

III. It shall be lawful for the Governor General of India in Council from time to time by order in Council to empower every General or other Officer having the Command of Troops in the service of Her Majesty or of the East India Company, or of any such General or other Officers, to appoint General Courts Martial for the trial of any person or persons charged with having committed an offence punishable by this Act or by Section I. or Section II. of Act XI. of 1857, and also to confirm and carry into effect any sentence of such Court Martial.

IV. Any General Court Martial, which may be appointed under the authority of this Act, shall be appointed by the Senior Officer on the spot, and shall consist of not less than five Commissioned Officers, the number to be fixed by the General or other Officer appointing the Court Martial. The Order in Council may direct that a General Court Martial to be appointed under the provisions of this Act shall consist wholly of European Commissioned Officers or wholly of Native Commissioned Officers, or partly of European Commissioned Officers, and partly of Native Commissioned Officers; and in such case the Officer appointing the Court Martial shall determine whether the same shall consist wholly of European Officers or wholly of Native Officers, or partly of European Officers and partly of Native Officers.

V. Sentence of death or other punishment, to which the offender, is liable by law, may be given by such Court Martial, if a majority of the Members present concur in the sentence; and any such sentence may be confirmed by and carried into effect immediately or otherwise by order of the Officer by whom the Court Martial shall have been appointed, or, in case of his absence, by the senior Officer on the spot.

VI. It shall be lawful for the Governor General in Council to countermand or alter any Order in Council which may be issued under the authority of this Act.

VII. It shall be lawful for the Governor General in Council, or

Sec. VII.—All Session Judges, and Officers exercising the powers of a Session Judge, were appointed Commissioners under this Section by Ext. Min. Cons. of Govt. 27th July 1857.—Explanatory orders and instructions were also issued under dates 1st and 25th Aug. 1857.

for the Executive Government of any Presidency or place, or for any person or persons whom the Governor General in Council may authorize so to do, from time to time, to issue a Commission for the trial of all or any person or persons charged with having committed within any district described in the Commission, whether such district shall or shall not have been proclaimed to be in a state of rebellion, any offence punishable by Sections I. and II. of Act XI. of 1857, or by this Act, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

VIII. The Commissioner or Commissioners authorized by any such Commission, may hold a Court in any part of the district mentioned in the Commission, and may there try any person for any of the said crimes committed within any part thereof, it being the intention of this Act, that the district mentioned in the Commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

IX. Any Court held under the Commission shall have power, without the attendance or Fatwa of a Law Officer, or the assistance of Assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crime; and the judgment of such Court shall be final and conclusive; and the said Court shall not be subordinate to the Sudder or other Court.

X. If a Commission be issued under the authority of this Act, any Magistrate or other Officer having power to commit for trial within the district described in the Commission may commit persons charged with any of the aforesaid crimes within such district for trial before a Court to be held under this Act.

XI. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

XII. This Act shall not extend to the trial or punishment of any person for any offence for which he is liable to be tried by the Articles of War.

XIII. The word "Soldier" shall include every person subject to any Articles of War.

XIV. This Act shall continue in force for one year.

ACT No. XV. OF 1857.

An Act to regulate the establishment of Printing Presses and to restrain in certain cases the circulation of printed books and papers.

Whereas it is expedient to prohibit the keeping or using of printing presses, types, or other materials for printing, in any part of the territories in the possession and under the Government of the East India Company, except with the previous sanction and license of Government, and under suitable provisions to guard against abuse; and whereas it may be deemed proper to prohibit the circulation, within the said territories, of newspapers, books, or other printed papers of a particular description: It is enacted as follows:

I.. No person shall keep or use any printing press, or types, or other materials or articles for printing, without having obtained the previous sanction and license for that purpose of the Governor General of India in Council, or of the Executive Government of the Presidency in which such printing press, types, or other materials or articles for printing are intended to be kept or used, or of such other person or persons as the Governor General of India in Council may authorize to grant such sanction or license: and any person who shall keep or use any printing press, or types, or other materials or articles for printing, without having obtained such license shall be liable, on conviction, before a Magistrate, to a fine not exceeding five thousand rupees, or to imprisonment not exceeding two years, or to both.

II. If any person shall keep or use any printing press, or types, or other materials or articles for printing, without such sanction or license as aforesaid, any Magistrate, within whose jurisdiction the same may be found, may seize the same, or cause them to be seized, together with any books or printed papers found on the premises; and shall dispose of the same as the Governor General of India in Council, or the Executive Government of any Presidency, or such other person as the Governor General in Council shall authorize in that behalf, may direct; and it shall be lawful for any Magistrate to

issue a search warrant for the entry and search of any house, building, or other place, in which he may have reason to believe that any such unlicensed printing press, types, or other materials or articles for printing are kept in use.

III. Whenever any person or persons shall be desirous of keeping or using any printing press, or types, or other materials or articles for printing, he or they shall apply by writing to the Magistrate within whose jurisdiction he proposes to keep or use such printing press or other such materials or articles as aforesaid, or to such other person as the Governor General in Council, or the Executive Government of the Presidency, or such other person as the Governor General in Council shall authorize in that behalf, may appoint for that purpose. The application shall specify the name, profession, and place of abode of the proprietors of such printing press, types, or other materials or articles for printing, and of the person or persons who is or are intended to use the same, and the place where such printing press, types, or other materials or articles for printing are intended to be used; and such application shall be verified by the oath, affirmation, or solemn declaration of the proprietors and person intending to keep or use such printing press, types, or other materials or articles for printing, or such of them as the Magistrate or other person to whom the application shall be made, shall direct; and any person wilfully making a false oath, affirmation or declaration shall be deemed guilty of perjury.

IV. The Magistrate shall forward a copy of such application to the Governor General in Council, or to the Executive Government of the Presidency, or to such other person as may be authorized to grant the license; and the said Governor General in Council, or such Executive Government, or other person as aforesaid, may at his or their discretion grant such license subject to such conditions (if any) as he or they may think fit, and may also at any time revoke the same.

V. If any person or persons shall keep or use, or cause or allow to be kept or used, any such printing press, types, or other materials or articles for printing contrary to the conditions upon which the license may have been granted, or after notice of the revocation of such license shall have been given to or left for him or them at the

place at which the printing press shall have been established, he or they shall be subject to the same penalties as if no such license had been granted ; and such printing press, types, and other materials or articles for printing may be seized and disposed in the manner prescribed in Section II. of this Act.

VI. All books and other papers, printed at a Press licensed under this Act, shall have printed legibly thereon the name of the printer and of the publisher, and the place of the printing and publication thereof ; and a copy of every such book or printed paper shall be immediately forwarded to the Magistrates or to such other person as the Government or other person granting the license may direct ; and every person who shall print or publish any book or paper otherwise than in conformity with this provision, or who shall neglect to forward a copy of such book or paper in manner hereinbefore directed, unless specially exempted therefrom by the Governor General in Council or other person granting the license, shall be liable, on conviction before a Magistrate, to a fine not exceeding one thousand rupees, and in default of payment to imprisonment for a term not exceeding six calendar months.

VII. The Governor General of India in Council, or the Executive Government of any Presidency, may, by Order to be published in the *Government Gazette*, prohibit the publication or circulation, within the said territories or the territories subject to the said Government, or within any particular part of the said territories, of any particular newspaper, book, or other printed paper, or any newspaper, book, or printed paper of any particular description, whether printed within the said territories or not ; and whoever, after such prohibition, shall knowingly import, publish, or circulate, or cause to be imported, published, or circulated, any such book or paper, shall be liable for every such offence, on conviction before a Magistrate, to a fine not exceeding five thousand rupees, or to imprisonment not exceeding two years, or to both ; and every such book or paper shall be seized and forfeited.

VIII. The word "printing" shall include lithographing. The word "Magistrate" shall include a person exercising the powers of a Magistrate, and also a Justice of the Peace ; and every person

hereby made punishable by a Justice of the Peace may be published upon summary conviction.

IX. Nothing in this Act shall exempt any person from complying with the provisions of Act XI. of 1835.

X. No person shall be prosecuted for any offence against the provisions of this Act, within fourteen days after the passing of the Act, without an order of the Governor General in Council or the Executive Government of the Presidency in which the offence shall be committed, or the person authorized under the provisions of this Act to grant licences.

XI. This Act shall continue in force for one year.

ACT No. XVI. of 1857.

An Act to make temporary provision for the trial and punishment of heinous offences in certain districts.

Whereas it is expedient to make temporary provision for the trial and punishment of heinous offences in certain districts: It is enacted as follows:—

I. Whoever shall commit or attempt to commit any heinous offence in any district or place in which Martial Law hath been or shall be established, or in any district or place to which this Act shall be extended by order of the Governor General of India in Council, shall be liable, on conviction, to the punishment of death, or to the punishment of transportation for life, or of imprisonment with hard labor for any term not exceeding fourteen years; and shall forfeit all his property and effects of every description.

II. The words “heinous offence” shall be deemed to include an attempt to murder, rape, maiming, dacoity, robbery, or burglary, knowingly receiving property obtained by dacoity, robbery, or burglary, breaking and entering a dwelling-house and stealing therein, intentionally setting fire to a village, house, or any public building, stealing or destroying any property provided for the conveyance or subsistence of troops, and all crimes against person or property at-

tended with great personal violence, and all crimes committed with the intention of assisting those who are waging war against the State, or forwarding their designs.

III. Every person who shall be guilty of murder or any of the offences above described, may be tried either by Court Martial appointed under Act XIV. of 1857, or by a Commissioner or Commissioners authorized by a Commission issued under the said Act, or by the ordinary Courts of Judicature.

IV. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

V. This Act shall continue in force for one year.

ACT No. XVII. OF 1857.

An Act to provide temporarily for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion.

Whereas it is expedient to make temporary provision for the apprehension and trial of Mutineers and Deserters amenable to the Articles of War for the Native Troops of the East India Company ; It is enacted as follows :—

It shall be lawful for every Sessions Judge, and for every person exercising the same powers as a Sessions Judge, and for any person or persons whom the Governor General of India in Council, or the Executive Government of any Presidency or place, or the Chief Commissioners of the Punjab and Oude respectively, or the Commissioner of Nagpore, may, from time to time, invest with such power, to try for Mutiny or Desertion, wheresoever the offence may have been committed, any person subject to the Articles of War for the Native Troops of the East India Company, who in the judgment of such Officer or other person, ought to be tried and punished without delay ; and such Officer or other person may, on conviction of the offender, sentence him to such of the following punishments as might by the said Articles of War be awarded against him by a General Court Martial—that is to say, if the offender be an Officer,

to death or transportation for life ; and, if a Soldier, to death, transportation for life, or imprisonment, with or without hard labor, for life, or for any term of years. Such sentence shall be final and conclusive ; and if a sentence of death be passed, the same may be carried into execution immediately, or at such time as such Officer or other person shall direct. The Session Judge or other Officer by whom the sentence shall be passed may, if he think proper, report the case to the Governor General in Council, or to the Executive government of the Presidency, together with any remarks or recommendation which he may think fit to make thereon ; and the Governor General in Council, or the Executive Government of the Presidency, may either pardon the offender or commute the sentence to any less punishment.

II. It shall be lawful for the Governor General in Council, or the Executive Government of any Presidency or place, or any of the said Commissioners, to authorize any person or persons to issue a Commission for the trial of mutiny and desertion by any person or persons amenable to the said Articles of War ; and every person authorized by such Commission shall have all the powers vested by this Act in a Session Judge.

III. It shall be lawful for any Police Officer or other person to apprehend without warrant any person upon reasonable suspicion that he is a mutineer or deserter and amenable to the Articles of War for the Native Troops of the East India Company.

IV. Every person who shall be apprehended as a mutineer or deserter under the provisions of this Act shall be conveyed without delay before a Magistrate, or an Officer exercising any of the powers of a Magistrate, in or near to the place where such person shall have been so apprehended, and may in the mean time be detained in custody ; and if the said Magistrate or other Officer shall be satisfied that such person is a mutineer or deserter and amenable to the Articles of War for the Native Troops, he shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of some Military Station, in order that he may be dealt with according to law ; or the Magistrate or other officer may commit him for trial before any Officer or other person authorized by or under the provisions of this Act to try him for such offence, if the

Magistrate or other Officer shall see good and sufficient reason for so doing ; or if the Magistrate or other Officer shall be authorized under the provisions of this Act to try for mutiny and desertion, he may, if he think fit, proceed forthwith to try the offender.

V. The provisions of Sections V. and VI. of Act XI. of 1856 are hereby extended to all Officers, Soldiers, and other persons amenable to the Articles of War for the Native Troops.

VI. All Zemindars, Talookdars, and other persons who, by Regulation VI. of 1810 of the Bengal Code, are declared to be accountable for the early communication of intelligence respecting the resort to their estates of the classes of offenders therein specified, are hereby declared to be accountable for the early communication of intelligence of the resort to any place within the limits of their estates, of any person against whom there shall be reasonable suspicion of his having been guilty of mutiny or desertion ; and all the provisions of the said Regulation shall have the same force and effect as if persons guilty of mutiny and desertion had been specially included in the classes of offenders specified in that Regulation. Provided that no proceeding shall be taken against any Zemindar, Talookdar, or other person by virtue of this Section for anything done, or omitted to be done, by him within fourteen days after the passing of this Act.

VII. The word " Magistrate " shall include persons exercising the powers of a Magistrate, Police Magistrate, and Justice of the Peace.

VIII. This Act shall continue in force for one year.

ACT No. XXIII. OF 1857.

An Act to provide for the good order and discipline of certain Volunteer Corps, and to invest them with certain powers.

XVI. It shall be lawful for any member of such Corps, whenever he may be in discharge of his duty as a member of the Corps, and wheresoever he may then be, to disarm any person, not being in the military or naval Service of the Queen or the East India Company, or a police Officer, who shall be found between sun-set and sun-rise in any public street, thoroughfare, or other public place, armed with

a sword, spear, gun, or other fire-arms or warlike instruments, without a pass or license for that purpose from the Commissioner of Police, or other officer authorized by Government to grant such pass; and also to disarm any person who may be found armed at any time contrary to law, or to any order of Government, in any public street, thoroughfare, or other public place; and also to apprehend and deliver over to a police Officer any person so found armed, in order that he may be dealt with according to law; and the weapon so seized shall be forfeited to Government, or otherwise dealt with according to law or to the orders of Government.

XVII. It shall also be lawful for any member of such Corps whenever he may be on duty, to prevent any disturbance of the public peace; and to disperse any persons whom he may find assembled together to the number of five or more without reasonable cause, between sun-set and sun-rise, in any public street, thoroughfare, or other public place in which such member of the said Corps may be in the discharge of his duty, and also to apprehend any person against whom there shall be reasonable grounds to suspect that he has committed or is about to commit any offence against the State, or that he has aided, or is about to aid, any other person in the commission of such offence, or that he has incited, or is about to incite, any person or persons to mutiny or rebellion or other offence against the State; and to deliver him over to some police officer.

XVIII. Whoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist any member of such Corps in the execution of his duty, shall be liable, on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding six calendar months with or without hard labor.

XIX. The word "Magistrate" shall include Magistrates of Police, Joint Magistrates, and persons exercising the powers of a Magistrate.

ACT No. XXV. of 1857.

An Act to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases.

Whereas it is expedient to render Officers and Soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and to provide for the adjudication and recovery of forfeitures in certain cases ; It is enacted as follows :—

I. Every Officer and Soldier or other person subject to the Articles of War of the Native Army, who shall be convicted of mutiny shall forfeit all his property of every description.

II. If any person who shall have committed treason or any offence for which, by this Act, or Act XI. of 1857, or Act XIV. of 1857, or Act XVI. of 1857, his property is declared to be forfeited, shall have been killed, or shall have died, or shall have escaped out of the territories of the East India Company, before he shall have been convicted of the offence, or cannot after diligent search be found, any Court or other authority which might have tried such offender, if he could have been brought to trial, shall, upon the application of the Magistrate or other officer authorized by Government to make such application, hold an enquiry ; and on proof that the person charged with having committed the offence was guilty thereof, and that he is dead, or has escaped out of the territories of the East India Company, or cannot after diligent search be found, shall adjudge that all the property of such offender shall be forfeited to Government.

III. The forfeiture, whether upon conviction of such an offence as aforesaid, or upon an adjudication of forfeiture under this Act, shall extend to all property and effects of or to which the offender shall have been possessed or entitled, either at the time of committing the offence, or at the time of the conviction, or of the adjudication of forfeiture, or at any intermediate time ; and no sale, alienation, or

other disposition of such property, made subsequently to the commission of the offence, or made at any time with the fraudulent intention of preventing a forfeiture, shall have any effect against the right of Government to the forfeiture. Provided that nothing in this Section contained shall affect any transferee of any negotiable security who shall prove that he acquired the same in good faith and with due caution, for valuable consideration.

IV. All immoveable property of the offender, which shall be alienated after the passing of this Act, and before the commission of any offence specified in Section II. shall be forfeited in the same manner as if no such alienation had been made, unless the alienation be made in good faith and for valuable consideration, or unless the same shall have been made and registered more than three months before the commission of the offence.

V. The Court, or other authority by which the offender shall be convicted, or the forfeiture shall be adjudged, may specify in the conviction or adjudication the day on which the offence was committed, if it can be ascertained.

VI. In any proceeding concerning property alleged to have been forfeited, the conviction shall be conclusive evidence that the offence was committed, and if the day be specified in such conviction, that the offence was committed on that day; if the day be not specified, the conviction shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. In any such proceeding, an adjudication of forfeiture under this Act shall be *prima facie* evidence of the commission of the offence, and, if the day be specified in the adjudication, that the offence was committed on that day; if the day be not specified, the adjudication shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. Any adjudication under this Act shall be filed with, and may be proved in the same manner as the records of the principal court of criminal jurisdiction of the district.

VII. After the conviction or adjudication, the Collector or other chief officer appointed by Government for the collection of revenue, or any other officer whom the Government may specially appoint, may seize and take possession of the forfeited property: if he require

the assistance of a Court to enable him to obtain possession of any such property by reason of any dispute respecting the title to the same or for any other cause, the principal Civil Court of original jurisdiction of the district in which the property is situate may, upon the production of a certified copy of the conviction or adjudication, hear and determine in a summary manner upon petition any matter in dispute relating to such property. Any order which may be passed by the Court shall not be subject to appeal; but the party against whom the same may be given, by any Court other than one of Her Majesty's Supreme Courts of Judicature, shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

VIII. In case any person whose property shall have been so adjudged to be forfeited, shall within one year after the seizure of any part of his property as a forfeiture, surrender himself, and shall upon trial before a competent Court be acquitted of the offence, his property or the proceeds thereof shall be restored upon proof, to the satisfaction of the Court, that he did not escape or keep out of the way for the purpose of evading justice.

IX. No suit or proceeding shall be had or taken on account of the seizure of any property seized in pursuance of this Act, or for the restoration or recovery of such property, or of the proceeds thereof, unless the same be instituted within one year from the time of the seizure.

X. In case it shall appear to a Magistrate that there is reasonable ground to suppose that any person is guilty of any offence specified in Section II. of this Act, and that any property liable to forfeiture for the offence is likely to be made away with, it shall be lawful for the Magistrate to attach such property, and secure the same until the trial of the offender, or until an enquiry for the purpose of adjudication under this Act shall be had.

XI. The word "Magistrate" in this Act shall include any Officer competent to commit for trial for any offence specified in Section II. of this Act.

ACT No. XXVIII. OF 1857.

An Act relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same.

Whereas it is expedient to regulate the importation, manufacture, and sale of arms and accoutrements, and the right to keep or use the same ; It is enacted as follows :—

I. In any district or place to which the provisions of this Section shall be extended by order of the Governor General of India in Council, or of the Executive Government of any Presidency or place, every person shall, within such time as shall be mentioned in the order, or, if no time be mentioned therein, within one week from the publication of the order in the district or place, give notice in writing to the Magistrate or other Officer specified by the Executive Government, of any fire arms, bayonet, sword, spear, spear-head, or other deadly weapon to be specified in such order, which shall be in his possession, or shall be on his premises in the possession of any of his retainers or servants ; and shall also give immediate notice in writing of all other arms of the like description which shall at any subsequent time come into his possession, or into the possession of any of his retainers or servants as aforesaid. The notice shall specify the number and description of the arms so possessed, and also, in the case of arms so possessed by retainers or servants, the names of such retainers or servants, and in what capacities they are respectively employed.

II. Whoever wilfully neglects to give such notice as aforesaid, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees ; and all arms in the possession of such person may be seized and shall be confiscated if the convicting Magistrate shall so adjudge : and in case the arms of which he shall so neglect to give notice shall exceed what may be considered reasonable for the private use of such person, he shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and shall also be liable to a fine not exceeding five thousand rupees ; and all the arms, and any ammunition or Military stores, in the possession of such person, or on his premises shall be confiscated.

III. The Magistrate shall cause to be prepared from such notices a register of the names of persons having arms in their possession, and the number and description of such arms; and shall also, at the request of any person giving such notice as aforesaid, deliver to him a certificate specifying the date of the notice, and the number and description of arms specified therein.

IV. If, in the judgment of the Government or of the Magistrate, any such arms as aforesaid or any ammunition in the possession of any person cannot be left in such possession without danger to the public peace, it shall be lawful for the Magistrate to cause such Arms or Ammunition to be seized and detained in safe custody for such time as may be deemed necessary.

V. In any district or place to which the provisions of this Section shall be extended by order of the Governor General of India in Council, or of the Executive Government of any Presidency or place, if any person goes armed with any such arms as aforesaid, and shall not produce a certificate, from a Magistrate, or other officer authorized by Government to grant licenses to go armed, that he has obtained such a license, or that he is exempted by Government from the foregoing provisions, or give reasonable proof of his being otherwise exempted from the said provisions, he shall be liable to be disarmed by any Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or by any European Commissioned Officer in the service of Her Majesty or of the East India Company, or by any member of a Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police officer, if, in the judgment of such Magistrate or other person as aforesaid, it is dangerous to the public peace to allow such person to go armed. Provided always that, if any person shall have a license, from the Magistrate of the district or place at which he resides, or may be, to carry on a journey such arms as the Magistrate may consider reasonable for his private use, and shall obtain from such Magistrate a certificate stating the name and address of the licensee, the route by which he intends to proceed, the time which such journey is expected to occupy, and the arms which he is permitted to carry, such certificate shall have the same force and effect according to its tenor in every district or place specified

therein, as if leave to go armed had been granted by the Magistrate of such district or place.

VI. The foregoing provisions shall not apply to—

1. Officers, Soldiers, and Sailors in the Military or Naval Service of Her Majesty or of the East India Company, in respect of arms and ammunition kept by them for use in the public service.

2. Members of Volunteer Corps in respect of such arms and ammunition.

3. Police and Revenue Officers, and other persons, in respect of arms and ammunition furnished by Government for use in the public service, or provided by themselves with the sanction of Government for such use.

4. Such other persons as the Government may think fit to exempt from such provisions.

Arms and ammunition belonging to any ship or vessel, not exceeding the reasonable armament thereof, shall also be exempt, from such provisions.

VII. If any person shall manufacture, repair, sell, or keep or expose for sale any arms of the description hereinbefore mentioned, or shall manufacture, or sell, or keep or expose for sale percussion-caps, gunpowder, or other ammunition, without a license to manufacture or deal in arms or ammunition, as the case may be, or contrary to any of the conditions contained in any such license, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, in addition to double the value of any arms or ammunition sold; and all arms and ammunition belonging to the offender shall be forfeited if the convicting Magistrate shall so adjudge.

VIII. Licenses to manufacture or deal in percussion-caps shall be granted by the Governor General in Council, or by the Executive Government, or by an Officer specially authorized by the Governor General in Council, or by the Executive Government to grant such licenses. Licenses to manufacture or deal in arms and ammunition other than percussion-caps may be granted by a Magistrate or by an Officer authorized by the Governor General in Council, or by the Executive Government to grant such licenses.

IX. Every person licensed to manufacture or deal in arms, percussion-caps, or other ammunition, shall enter, in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms or ammunition sold by him, together with the nature, description, and quantity of such arms and ammunition. Such book shall be open at all times to inspection by the Magistrate or other duly authorized officer, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such a book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book, or shall make a false entry therein, he shall be liable for every such offence, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, in addition to double the value of any arms or ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry ; and if the offender be licensed to manufacture or deal in arms or ammunition, he shall also forfeit his license if the convicting Magistrate shall so adjudge.

X. The Magistrate or other officer authorized by Government may at any time enter the premises in which arms or ammunition shall be manufactured or kept by any licensed manufacturer of, or dealer in, arms or ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer ; and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees ; and all the stock-in-trade belonging to such person may be seized, and shall be confiscated if the convicting Magistrate shall so adjudge.

XI. Any license granted under the provisions of Section VIII. may be granted, subject to such conditions as shall be thought necessary, and may be revoked or suspended by the person or persons authorized to grant such license.

XII. No arms or ammunition, and no sulphur or saltpetre, shall

be imported either by sea or by land into any part of the territories, in the possession and under the Government of the East India Company, without the license of the Governor General in Council or of the Executive Government.

XIII. If any person shall import or attempt to import without such license, either by sea or by land, into any part of the said territories, any arms or ammunition, or any sulphur or saltpetre; or shall aid or assist in such importation, or in such attempt to import; or shall knowingly conceal or assist in concealing any arms or ammunition, or any sulphur or saltpetre, imported without such license—he shall be liable, on conviction before a Magistrate, to imprisonment with or without hard labor for any term not exceeding two years, and also to a penalty not exceeding one thousand rupees; and the articles so imported shall be confiscated, if the convicting Magistrate shall so adjudge.

XIV. The provisions of the two last preceding Sections shall not extend to arms and ammunition imported in reasonable quantities for private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government. Nothing in this Section shall exempt any person from the obligation of giving any notice required by this Act.

XV. The Governor General in Council may by order prohibit the transport of arms, ammunition, military stores, sulphur, or saltpetre, or any particular description of arms, ammunition, or military stores, from one part of India to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof, except according to such rules and conditions as may be specified in the order; and the Executive Government of any Presidency or place shall have the like power within the territories under their Government.

XVI. If any person shall transport or cause to be transported, or shall attempt to transport or cause to be transported, or shall aid in transporting, any arms, ammunition, military stores, sulphur, or saltpetre, contrary to such order or to the rules and conditions specified therein, he shall be liable, on conviction before a Magistrate, to a

penalty not exceeding five hundred rupees ; and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment, or other device, transport or cause to be transported, or attempt to transport or cause to be transported, such arms, ammunition, military stores, sulphur, or saltpetre, he shall, in addition to the penalty hereby provided, be liable upon such conviction to imprisonment, with or without hard labor, for a term not exceeding two years.

XVII. If any person shall be found carrying or conveying arms, ammunition, military stores, sulphur, or saltpetre in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such person with intent to use the same, or that the same may be used for any unlawful purpose, dangerous to the public peace, it shall be lawful for any of the public officers mentioned in Section V. of this Act, or for any other person, to apprehend without warrant the person so carrying or conveying such arms, ammunition, military stores, sulphur, or saltpetre, and to detain such person in custody in order that he may be dealt with according to law. If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police officer, he shall be delivered over as soon as possible to a Police officer ; and all persons apprehended by or delivered to a Police officer under the provisions of this Act shall be carried before a Magistrate or other officer competent by law to punish him for the offence, or to commit him for trial.

XVIII. Whenever the Governor General in Council or the Executive Government shall consider it necessary so to do, they may by order prohibit the sale of sulphur ; and any person selling sulphur contrary to such order shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees ; and all sulphur belonging to such person shall be confiscated if the convicting Magistrate shall so adjudge.

XIX. The Governor General in Council or the Executive Government may also at any time seize all sulphur in the possession of any person, and detain the same for such time as they may deem necessary for the public safety.

XX. Nothing in the two preceding Sections shall apply to sulphur kept or sold in reasonable quantities for medicinal purposes.

XXI. The Government may exempt any person from the provisions of Sections XVIII. and XIX. upon such conditions, if any, as such Government may consider necessary.

XXII. The Government may require all persons having in their possession ammunition or other military stores or sulphur, in any greater quantities than are considered reasonable for private use, to give notice thereof to the Magistrate or other officer specified by Government; and any person who wilfully neglects to give such notice shall be liable, on conviction before a Magistrate, to imprisonment with or without hard labor for a term not exceeding two years, and shall also be liable to a fine not exceeding five thousand rupees; and all ammunition, military stores, or sulphur in the possession of such person or upon his premises shall be confiscated.

XXIII. If any Magistrate have reasonable cause for suspecting that arms, ammunition, or sulphur, liable to confiscation, are in any house, building, or other place, or that any arms, ammunition, or sulphur are in any house, building, or other place in the possession of any person in whose possession they cannot be left with safety to the public peace, he may, with such assistance as he shall think necessary, by night or by day, and by force if necessary, enter and search any such house or place, or cause the same to be entered and searched. It shall be competent to a Magistrate to delegate to any of his European Assistants the powers conferred on him by this Section.

XXIV. The Governor General of India in Council, or the Executive Government of any Presidency or place, or the Chief Commissioners of the Punjab, and Oude respectively, or the Commissioners of Nagpore and Scinde respectively, or any other persons authorized by Government, may order a general search for arms, ammunition, or sulphur to be made, by any officers or persons named in such order, in any district or place specified therein. The persons authorized by such order, and all persons acting under their authority, shall have the like powers of entry, search, and seizure as are conferred by the last preceding Section.

XXV. If, on any search being made, any person shall refuse to produce or point out to the persons making the search, or shall conceal or attempt to conceal, any arms, ammunition, or sulphur, such person may be apprehended without warrant, and shall be liable, on conviction before a Magistrate, to imprisonment with or without hard labor for a term not exceeding two years, in addition to any other penalty to which he may be subject under this Act.

XXVI. After such time as shall be mentioned in the order of Government extending the provisions of this Section to any district or place, or, if no time be mentioned, after one week from the publication of the order in the district or place, no person shall manufacture, use, or have in his possession any cannon, howitzer, or mortar, without a license from the Governor General of India in Council, or from the Executive Government of any Presidency or place. If any person shall manufacture, use, or have in his possession any cannon, howitzer, or mortar, without such license, he shall be liable, on conviction before a Magistrate, to a fine not exceeding two thousand rupees, and to imprisonment for a term not exceeding two years; and such cannon, howitzer, or mortar may be seized and shall be forfeited to Government. Any person who has in his possession any cannon, howitzer, or mortar at the time when this Section takes effect in any district or place, and who shall be unwilling to apply for a license to retain possession thereof, may surrender the same to the Magistrate within such period as aforesaid. The provisions of this Section shall not extend to any cannon, howitzer, or mortar forming part of the ordinary armament of any ship or vessel.

XXVII. Whoever assaults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months.

XXVIII. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after

tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

XXIX. If any fine or penalty imposed by a Magistrate under the authority of this Act be not immediately paid, the Magistrate may commit the offender to jail, there to be imprisoned according to the discretion of the Magistrate for any term not exceeding six months where the amount of the fine or penalty shall not exceed five hundred rupees, and for any term not exceeding twelve months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

XXX. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty may be awarded to the person on whose information the conviction shall take place.

XXXI. The word "Magistrate" shall include any person exercising the full powers of a Magistrate: and within the Presidency Towns and in the Straits Settlement, all powers of conviction and confiscation upon conviction given by this Act to a Magistrate, shall be exercised by the Police Magistrates; and all other powers given by this Act to a Magistrate may be exercised by the Commissioner of Police, and all notices hereby required to be given to a Magistrate shall in any such Presidency town or in the Straits Settlement be given to the Commissioner of Police.

XXII. Whenever in any Presidency or place the immediate control and superintendence of the Police is vested in any person other than the Magistrate or such Commissioner of Police as aforesaid, the Executive Government, may order that all or any of the powers given by this Act to a Magistrate, other than powers of conviction and confiscation upon conviction, shall be exercised by such person, and that all notices hereby required to be given to a Magistrate shall be given to such person.

XXXIII. This Act, or any part or parts thereof, shall take effect in any district or place to which the same shall be extended by order of the Governor General of India in Council or of the Executive Government of any Presidency or place.

XXXIV. It shall be lawful for the Governor General in Council, or the Executive Government of any Presidency or place from time to time to withdraw from the operation of all or any of the provisions of this Act any part or parts of any district or place which they may previously have declared to be subject thereto; and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

XXXV. This Act shall continue in force for two years.

XXXVI. Any officer of Government, who, prior to the passing of this Act, may have seized or detained, or prevented the importation of any arms, ammunition, military stores, sulphur, or saltpetre, in pursuance of an order of Government, is hereby indemnified for so doing; and no action or other proceeding shall be commenced or prosecuted in respect of such seizure or detention.

ACT No. I. OF 1858.

An Act to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor on certain works of irrigation in the Presidency of Fort St. George.

Whereas the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the laboring classes, when duly called upon, to unite their labor to prevent such breaches, or to repair them instantly: and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labor required for the execution of certain works for the purpose of irrigation and drainage: it is enacted as follows:—

I. Whenever it shall appear to the officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal,

being breached, or of a breach being made in such anicut, or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of laborers immediately working together to strengthen the embankment or other work; or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of laborers for that purpose—it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the laboring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be. In the absence of the said officer, it shall be lawful for the Tahsildar of the talook to make such requisition in his stead. And if neither the said officer nor the Tahsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the laborers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighboring villages to call likewise upon the laborers of their villages to co-operate in the work necessary for preventing or repairing the breach.

II. Any male person of the laboring classes being duly called upon by the head of his village to labor as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse, shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

III. Every person who shall be employed on such work, under such requisition, shall be paid for his labor by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

IV. Payment shall be made to the laborers from the public treasury; and if the laborers shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land revenue.

V. It shall be lawful for heads of villages, on the requisition of

the officer in charge of such works as aforesaid, or in his absence on the requisition of the Tahsildar, or, in case of emergency when neither such officer nor the Tahsildar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, trees and leaves, bamboos, straw, and the like, necessary for stopping breaches in the embankments of tanks, rivers, and canals, and to seize and if necessary to cut down such articles wherever they may be found, giving receipts for them in writing; such supplies shall be paid for from the public treasury at the highest prices for which such articles are sold in the neighbourhood; and in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under Section VI. When the work for which such articles are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land revenue are recoverable.

VI. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith, is usually executed by the joint labor of a village community, any person bound by such custom to contribute labor to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid, made to him by the head of the village under the orders of the Tahsildar or other superior revenue officer, shall be liable to pay a sum equal to twice the value of the labor which he is bound to contribute. The amount so payable shall, in case of dispute, be determined summarily by a village or district Panchayet assembled by order of the Collector through the village or district Moonsiff, according to the rules for assembling such Panchayets prescribed in Regulations V. and VII. of 1816. Such amount shall be payable on demand; and on non-payment the same may be recovered by the same means by which arrears of land revenue are recoverable. All sums paid or recovered under this Section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

ACT No. III. OF 1858.

An Act to amend the law relating to the arrest and detention of State Prisoners.

Whereas doubts have been entertained whether State prisoners confined under Regulation II. of 1819 of the Madras Code, or Regulation XXV. of 1827 of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed and that the powers of the said Regulations and of Regulation III. of 1818 of the Bengal Code be extended; it is enacted as follows:—

I. So much of Clause 1, Section I. of Regulation XXV. of 1827 of the Bombay Code as provides—that, with reference to the individual the apprehension and confinement therein referred to shall not be in breach of British law—is repealed; except so far as the said provision applies to European British subjects.

II. The provisions of Regulation III. of 1818 of the Bengal Code, Regulation II. of 1819 of the Madras Code and Regulation XXV. of 1827 of the Bombay Code as altered by Section I. of this Act, relating to the arrest and confinement of persons as State prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras, and Bombay respectively.

III. All powers for the better custody of State prisoners which by virtue of Act XXXIV. of 1850, are vested in the Governor General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively for the better custody of State prisoners arrested within their respective Presidencies.

IV. Any person arrested as a State prisoner before the passing of this Act, or now confined as a State prisoner by the order or under the warrant of the Governor General in Council, or of the Governor in Council of Fort St. George, or of the Governor in Council of

Bombay respectively, shall be deemed to have been lawfully arrested, and to be lawfully confined.

V. The Governor General in Council may order the removal of any State prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said Presidencies, to any other fortress, jail or place of confinement within the territories in the possession and under the Government of the East India Company.

ACT No. V. OF 1858.

An Act for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders.

Whereas, during the recent disturbances in the North-Western Provinces and other parts of India, many jails were broken open and the prisoners who were then detained therein were forcibly released, and many of such prisoners are now at large; and it is expedient to provide for the apprehension of certain of such offenders: and whereas it is also expedient to make better provision for the punishment of persons convicted of, or charged with, the commission of heinous offences, who shall hereafter escape from jail; it is enacted as follows:—

I. Every person who since the 1st May 1857 hath escaped from jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, and who being at large shall not within one month from the passing of this Act surrender himself to a Magistrate or Police Officer, and make true answer to all such questions as shall be put to him by a Magistrate touching the jail or other custody from which he escaped, and the cause for which he was there detained; and every person who shall hereafter escape from jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter

mentioned—shall upon conviction be sentenced to transportation for life.

II. Every person who since the said 1st day of May 1857 hath escaped from jail or lawful custody whilst detained under a committal for trial for any of the crimes hereinafter mentioned, or under a charge of being guilty of such crime, and who shall not within one month after the passing of this Act surrender himself to a Magistrate or Police officer, and make true answer to all such questions as shall be put to him by a Magistrate touching the jail or other custody from which he escaped, and the nature of the charge upon which he was detained, and every person who shall hereafter escape from jail or other lawful custody whilst detained under such committal for trial or upon such charge as aforesaid—shall, upon conviction of the crime for which he was so committed for trial, or in respect of which he was so charged, if not sentenced to the punishment of death, be liable to be transported for life.

III. The following are the crimes referred to in Sections I. and II. namely;—rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs, or to a gang of dacoits, or to a wandering gang associated for the purposes of theft or robbery, and all crimes against person or property attended with great personal violence.

IV. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict or other person who shall have escaped as aforesaid, shall be liable to imprisonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

V. All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police officers, of intelligence of the resort to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict or prisoner who has escaped as aforesaid; and every proprietor or other person as aforesaid, who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to

imprisonment for a term not exceeding six months, and to fine not exceeding two hundred rupees commutable, if not paid, to imprisonment for a further term not exceeding six months.

VI. Any Magistrate or person exercising full powers of a Magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from jail.

VII. Offences under this Act, other than those provided for by Section V. of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV. of 1857; and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

ACT No. VI. of 1858.

An Act to authorize the impressment of artisans and laborers for the erection of buildings for the European troops in India, and for works urgently required for military purposes.

Whereas, in consequence of the necessity which exists of completing without delay sufficient buildings for the accommodation of the European troops in India, and of the difficulty of procuring without compulsion a sufficient number of artisans and laborers for that purpose, it is expedient to authorize as a temporary measure the impressment of such artisans and laborers as may be necessary: and whereas it may be necessary to impress artisans and laborers for the performance of works urgently required for the military purposes or for the defence of public property; it is enacted as follows:—

I. In any district or place to which the provisions of this Act

shall be extended by order of the Governor General in Council, or of the Executive Government of any Presidency or place, it shall be lawful for any officer or officers, authorized in that behalf by the Governor General in Council, or by such Executive Government as aforesaid, to impress any native artisans and laborers, who in the judgment of such officer or officers, may be necessary for the erection, completion, alteration, or repair of any building required for the accommodation of European troops, or for the collection, preparation, or manufacture of materials for that purpose, or for any other work connected with the erection, completion, alteration, or repair of such building; and also to impress such boats, carts, bullocks, or other animals as may be necessary in that behalf: and any such artisan or laborer, boat, cart, bullock, or other animal may be so impressed, whether such artisan or laborer shall be under a contract to work for, or such boat, cart, bullock, or other animal shall have been previously let to hire to, any private person or not.

II. No action or other proceeding shall be commenced or prosecuted against the East India Company, or against Government, or against the officer ordering the impressment, or against any person acting in his aid or under his orders, for any thing done in pursuance to this Act; nor shall any person who shall be impressed, or whose property shall be impressed, under the provisions of this Act, or any other person, be liable to any action or proceeding for the non-performance of any contract which he shall have entered into, and which he shall be prevented from completing, by reason of such impressment, or of any thing done under the authority of this Act.

III. Every person impressed, or whose property shall be impressed under this Act, shall be paid the full market-value of his labor, or of the hire of his property, as the case may be, according to such rules as shall from time to time be made by the Executive Government for securing the just and punctual payment thereof; the amount in case of dispute shall be settled by a Magistrate.

IV. If any person with whom any contract shall have been entered into before the passing of this Act, for the personal labor or services of any person impressed under this Act, or for the hire of any boat, cart, bullock, or other animal which may be so impressed,

shall sustain damage by reason of any breach of such contract occasioned by any such impressment, or of any thing done under the authority of this Act, he shall be entitled to full compensation for such damage, to be paid by the Government.

V. The claimant shall send in to the officer by whom or under whose orders the impressment shall be made, a written demand stating the terms of the contract for the breach of which he claims compensation, the date of the contract, the period for which the contract was entered into, the amount of advances (if any) made in pursuance of the contract, the nature of the damage sustained, and the amount of compensation claimed.

VI. A declaration in writing signed by the claimant shall be written on or annexed to the claim, and the claimant shall thereby declare that the statements contained in the claim are true in substance. If any person shall wilfully and corruptly make a false declaration, he shall be liable upon conviction to imprisonment, with or without hard labor, for a term not exceeding two years, and also to fine. Such conviction may be by a Magistrate, except in the case of European British subjects.

VII. In case any dispute shall arise as to the amount of such compensation, the same shall be determined in a summary way by the Zillah Judge, or other officer exercising the powers of a Judge, on the petition of the claimant or of the officer under whose authority the impressment was made; and the decision of the Judge or other officer shall be final.

VIII. If any person impressed under this Act shall abscond or conceal himself, or endeavor to abscond or conceal himself; or shall without reasonable cause desert the work upon which he shall be employed by Government, before the same shall have been completed; or shall refuse or wilfully neglect to bestow his labor upon such work to the best of his ability; or if any person shall be guilty of any device for the purpose of preventing the impressment of any boat, cart, bullock, or other animal—he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees, and, in case of non-payment of the fine, may be ordered by the Magistrate to

suffer corporal punishment not exceeding fifteen stripes with a ratan. Every such conviction shall be final.

IX. Nothing in this Act shall be deemed to authorize the infliction of corporal punishment upon any European, or upon any female.

X. No action or other proceeding shall be brought or prosecuted against the East India Company, or against Government, or against any person, for any impressment before the passing of this Act for any work or other matter for which impressment is authorized by this Act; nor against any person for the breach of any contract occasioned by any such impressment. Every person who shall have been impressed, or whose property shall have been impressed, before the passing of this Act, or who shall have sustained damage by reason of any breach of contract occasioned by such impressment, shall be entitled to the same payment or compensation, to be settled or ascertained in the same manner, as if this Act had been in force at the time of such impressment.

XI. The provisions of this Act shall extend to any works urgently required for military purposes, or for the defence of public property.

XII. The word "Magistrate" shall include every person exercising the full powers of a Magistrate, and every person authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

XIII. This Act shall not authorize any impressment to be made after the expiration of six months from the passing of this Act.

APPENDIX.

JUSTICE OF THE PEACE.

General Observations, &c.

Magistrates in the provinces without the limits of the Supreme Court, who are all likewise Justices of the Peace, when acting in cases in which European British subjects are concerned, exercise those powers with which as *Magistrates* they are invested by 53 Geo. 3rd, Cap. 155, Sec. 105, promulgated in Reg. II. of 1820, *which see at p. 100* as extended by Act VII. of 1853, and also such others as have since been conferred on them as Justices of the Peace by subsequent enactments.

The functions of the Magistrate—Justice to be exercised in respect of European British subjects in the provinces, are threefold.

1st. The trial and punishment of offences by “Summary Conviction” or without jury.

2nd. The investigation of charges in view to the committal or discharge of the accused party.

3rd. The prevention of crimes and breaches of the peace.

Summary Conviction must be either under “Statute,” or “Act of Supreme Government.”

The Statutes under which such powers may be exercised, are—1st, The Navigation Acts, and those relating to the Registry of Ships, —2ndly, The Seaman’s Act, 5 and 6, Wil. 4th, c. 19,—3rdly, The Criminal Act for India, 9, Geo. 4th, c. 74, as amended by Acts XXXI. of 1838 and XXIX of 1850.

The Seaman’s Act provides for the summary trial and punishment of the following offences—1st, The taking seamen to sea without making an agreement in writing with them, according to the form

prescribed in the Statute, and reading it to them—2nd, The misbehaviour of seamen in refusing to join their ships, or in absenting themselves therefrom without leave, or by neglect of their duty on board, or by absolute desertion,—3rd, The wilfully harbouring of seamen who have deserted,—4th, The refusal of a Master to pay the seamen's wages at the times and in the manner prescribed by the statute,—5th, The refusal by the Master to give a seaman a certificate of his discharge—and 6th, All assaults and batteries on board ship : which last offences must (except in Bengal, where by Acts of the Supreme Government *all* authorities vested in two Justices may be executed by one) be tried before two Justices.

The Indian Criminal Act, modified as above, in like manner provides for the punishment of the following offences—1st, Having more than *five* pieces *counterfeit coin* at one time, without lawful excuse ; 2nd, Having *shipwrecked goods* without any excuse, or account to give for such possession ; 3rd, *offering such shipwrecked goods for sale* under suspicious circumstances, and without being able to give any good account of them ; 4th, *Stealing dogs* or other beasts, or birds, which are not ordinarily animals held *in property*, but which happen to have owners who keep them ; 5th, The receiving (knowingly) any property, the stealing or taking of which is as above shown punishable by *Summary Conviction* ; 6th, The *breaking down of dams or bunds* of places used to confine fish ; 7th, The *aiding* and assisting in any of these offences ; 8th, by Section XXIX. Act XXXI. of 1838, damages to plantations, or gardens, or any real or personal property whatever.

Of the functions of Justices of the Peace within the limits of the Supreme Court it is unnecessary to speak in this work ; their jurisdiction extends over all persons whatever, in respect of all offensive acts or conduct committed within those limits, and is exercised entirely under imperial Statutes or Acts of the Supreme Government.

As a general rule it may be observed that all powers given by any Act to Justices of the Peace in the provinces, are also thereby given to such functionaries at the Presidency—and will be found in this volume : but there are also several enactments which, either specifically or virtually, have application only to Justices acting within the limits of the Supreme Court.

For the convenience of all, a list is subjoined of the Acts which give powers to Justices of the Peace *as such*, or regulate their procedure, &c. either within those limits or without—distinguishing those which having general application, are inserted in this volume, and those which operating only at the Presidency, have been either wholly omitted, or merely abstracted in the Statement of “Crimes and Offences”—by the letters G. or P. affixed to them respectively.

ACTS.	YEAR.	SUBJECT.	EXTENT.
XVIII.	1835	Wearing of Badges.	G.
XXVIII.	1836	Municipal.	P.
XXXI.	1838	Amending Indian Criminal Act.	G.
II.	1839	Levy of Fines.	„
XIV.	„	Emigration.	„
XXII.	„	Prisoner's Counsel, &c.	„
XXII.	1840	Vagrants—offensive.	„
X.	1841	Shipping.	„
XVI.	„	Oaths of Justices.	„
XVIII.	„	Military Stores.	„
XXII.	„	Municipal.	P.
IV.	1842	Boats in Ports.	G.
XV.	„	Emigrants.	„
IV.	1843	Appeals for Justices.	„
X.	1844	Lotteries.	„
XXI.	„	Emigration.	„
VI.	1845	Commission of Justices.	„
VIII.	1849	Penal Jurisdiction of &c.	P.
IX.	„	Ditto	„
XVIII.	1850	Protection of do.	G.
XIX.	„	Apprentices.	„
XVIII.	„	Merchant Seamen.	„
XXIV.	1852	Crimping.	„
XVIII.	1853	Sale of Liquors.	„
XVII.	1854	Post Office.	„
XVIII.	„	Railway.	„
XXII.	„	Disposal of Fines.	„
XXXIV.	„	Telegraph.	„

ACTS.	YEARS.	SUBJECT.	EXTENT.
III.	1855	Indian Navy.....	G.
XXII.	„	Ports.....	„
XXXI.	„	Emigration.....	P.
I.	1856	Obscene Pictures, &c.....	G.
XI.	„	Deserters.....	„
XVII.	„	Criminal process.....	„
XV.	1857	Printing Press.....	„
XVII.	„	Deserters.....	„

SUGGESTIONS FOR JUSTICE OF THE PEACE.

1. Where the party complaining applies for a Warrant, or where before granting a summons, an information upon oath is proper, the party complaining, or his witness, should be examined upon oath; but, before administering the oath, it is recommended that the Magistrate shall ascertain, by a short enquiry, who, and what the witness is, and the facts to which he can depose, by permitting him to detail the transaction in his ordinary manner; and if it plainly appear that he cannot depose to any material fact in support of the complaint, the Magistrate will exercise his discretion in not examining him, as it is desirable to avoid administering an oath, unless its necessity be apparent. By such previous enquiry, also, the Magistrate may be made acquainted with local descriptions, and collateral circumstances, which may happen to be useful auxiliaries to the comprehension of the principal facts, and he will often be enabled by the manner of the parties, to discover whether they are speaking truth, or combining in the assertion of falsehood.

Suggestions, &c.—These suggestions were originally published and circulated in Ireland and were reprinted in Calcutta by Mr. Montgomery of the Bengal Civil Service for the use of Justices of the Peace residing in the Provinces; they appear so well adapted to that end, that I have followed his example with the same intention. Justices in the Provinces, generally, are however so seldom called on to exercise their functions, that I should perhaps have hesitated in making so lengthy an addition to this volume, had I not thought that much of the matter contained in the "Suggestions" would be useful, though not directly applicable, to the Provincial Magistracy—especially the younger and less experienced members of the Service. The same principles, modified by, and adapted to circumstances, may with obvious propriety and advantage, serve as a guide in the conduct of Magisterial investigations in general.

2. If in such case, it appear, that the party preferring the complaint can depose to any material fact, he should be sworn or affirmed. The witness should then be examined by the Justice, and his deposition carefully taken down in writing, as nearly as possible, in the words used by the witness; and it seems better, in general, to take it in the first person, "I saw, &c." instead of saying, "He, this examinant, saw, &c." The introduction of technical terms should be avoided, but all facts and circumstances ought to be introduced which are necessary to prove the offence, or which have a bearing upon the case, in order that the witness may be tied down to his narrative, and not left open to subsequent influence. Nothing, therefore, which is material, or that has any bearing on the case, and to which the witness can depose, ought to be omitted, or in any wise misrepresented in committing it to paper; so that, on the one hand, the prisoner may know what he shall have to answer at his trial, and be protected against the contradictory statements of the witnesses; and on the other, that there shall be no risk of the ends of justice being defeated, as has often happened by the witness at the trial stating facts which do not appear in his informations, or which appear irreconcilable with his written depositions. The Justice should also be careful to ascertain that the facts deposed to are within the knowledge of the witness, and are not given on his opinion, or from hearsay. After the examination of each witness is concluded, it should be distinctly read to him, in order that he may have an opportunity of correcting any thing that may be amiss in it. If he assents to its correctness, he should be called upon to sign it in attestation of its accuracy. These suggestions of course apply to proceedings *after* warrants have been granted and the prisoner has been arrested, as well as to proceedings prior to the granting of warrants, and therefore after a witness has been examined, where the prisoner has been arrested, he should then be called upon to cross-examine the witnesses, if he think proper, to the facts deposed to, and the answers of the witness to the cross-examination ought also to be taken down, and returned to the Court. It should be borne in mind that the Statute 9th Geo. IV. Cap. 74, Sections 2 and 3, requires that all the material facts and circumstances shall be set forth, and this is requisite, as well, in order that the officer of the Court before which

the trial is to be had, may thereby be able to frame a correct Bill of Indictment, as also that the Court may have the means of ascertaining by reference to the statement contained in the information, whether the testimony of the witness at the trial corresponds therewith, which is occasionally of the last importance in testing the credit of the witness.

3. When the person accused is brought before the Magistrates, the prosecutor or witness should, in all cases, attend and be sworn, to identify the prisoner. If the original information, taken at the time the complaint was made, contains a full statement of the case, and the witnesses for the prosecution have nothing further to depose, except to identify the prisoner, it is not usual to require a second information to the same facts; but in such case the witnesses are re-sworn, in the presence of the prisoner, to the truth of their former depositions and also to the identity of the prisoner, which latter statement, must be subjoined to the original information, and the information being then read distinctly to the witnesses, in the presence of the prisoner, the latter is permitted to cross-examine the witnesses respecting the matters therein charged against him. (See No. 2.) If he decline to do so, or if nothing additional is elicited, a fresh jurat is made to the original information, with the additional averment, above stated, as to the identity of the prisoner. But in this case, the witnesses should be thus resworn to their former informations, and not merely called upon to re-assert their truth.

4. When a fresh information is requisite, or additional matter is to be introduced into the original information, the suggestions above made (in Nos. 2 and 3) are applicable, observing to state, that it has been taken in the presence and hearing of the prisoner.

5. The evidence of the accused having been read over to him, so as to make him fully acquainted with the charge, he should be asked, if he wishes to say any thing in answer to it; the Magistrate at the same time informing him that he is not bound to state any thing, or to make any disclosure which may criminate himself, but that whatever he may state will be taken down, and may afterwards be used in evidence against him, and that he is not to hope for favor, though he should confess the crime; but the Magistrate is not to dissuade him from confessing, as this would be to close up one of the sources

of justice ; care should be taken that neither promises nor threats are held out to induce the accused to make any admission-against himself, and that any admission received is not the consequence of promises or threats. What the accused then states should be taken down in writing—the heading of the paper in which it appears having been previously prepared—and his statement should be taken at *the time* such statement is made by him, and as nearly as possible in the *very words used by him*. Attention to this latter caution cannot be too strongly enforced, and for this purpose, it is again suggested, as in the case of taking information (supra No. 2) that the statement be taken down as it is usually made, in the first, not the third person. This statement should then be perused by the accused, or read over to him in such a deliberate manner that he may perfectly comprehend it ; he should thereupon be asked if it be true, and what he has intended to state ; and if he say that it is, he should be asked to sign it, and the signature of the Magistrate should also be affixed. But though the accused should refuse to sign it, if he admit its truth, it should be signed by the Magistrate, and returned with the information. It should always be borne in mind, that this examination of the accused is intended by the law, as a privilege in his favor, in order that if innocent he may at once free himself from suspicion, and regain his liberty.

6. If several prisoners are implicated in the same charge, it is advisable, especially in offences of a serious character, that their statements be taken separately, and not in the presence of each other.

7. If from the absence of witnesses, or from any other reasonable cause, it become necessary or expedient to defer the examination, or to continue it at a future day, the Magistrate has, for such purpose, a discretionary power to remand the accused for further examination, and bring him forward as often as he considers it necessary for the ends of justice ; but in the exercise of this discretion, he ought to take care that the postponement be not for a longer time than is necessary for the due investigation of the case ; that it be *bonâ-fide* for re-examination, and not for the purpose of extorting a confession or the like ; and that the time for which the accused is remanded, is a reasonable time, not exceeding three or four days. Where a Magistrate has a discretionary power to take bail, and he has reason

to believe that by adjourning the enquiry, the accused may be enabled to bring forward such evidence as will induce him to take bail, it will be proper to commit, not for trial, but for further examination only ; or, if upon such charge, at any time previous to first committal for trial, he decide that bail ought to be taken, and if the accused has not his bail ready, he may by remanding him in like manner, give him a reasonable time to procure it. A commitment for further examination, if for more than a single day, should be by warrant in writing until a stated day, and the reason for postponement should appear in the body of the commitment.

8. The declaration of a person in extremity, or what is called his dying declaration, that is, a declaration by a person in a consciously dying state and under the impression of presently impending dissolution, stating the mortal injury inflicted upon him, made *in the absence of the prisoner*, is properly taken without oath. In such case, the Magistrate does not, in strictness, act in his Magisterial capacity, or with authority to administer an oath, as in the case of an information taken under the Statute. But it is desirable that a Magistrate should be called upon, in a matter of such solemn import, in preference to any person of less experience, and information. A dying declaration, however, when taken upon oath, extra-judicially administered, is not inadmissible in evidence, although it obtains no additional sanction thereby. If taken in the presence and hearing of the prisoner, it becomes an information, and is to be taken upon oath subject to the observations suggested (*supra* No. 2) ; and in either case, should be taken in the words used by the person making it. If the accused be present, particular care should be had as to his *identification* by the dying man ; and if he be not present, the most minute description of him should be obtained, by name, residence, &c. &c., so that there may be no doubt as to the person charged, or confusion between him and others of the same name or family.

Of the Form of the Information, and the Statements proper for particular cases.

9. In every information it is absolutely necessary to state the proper and entire name, or names, of the different persons swearing the

informations, and also their true addition or employment (as soldier, shop-keeper, tailor, &c. &c.), and the name of the district, station, or village, in which each of them lives. These particulars are requisite for the information of the officer of the Court, in preparing the indictment, and also in returning the estreats of recognizances forfeited, he being obliged to make oath, that all these circumstances are truly set forth to the best of his knowledge. The place where the offence was committed ought also to be particularly mentioned.

10. In all cases where a woman is either the prosecutor or the prisoner, be particular in stating whether she be married or single; and if married, the name, residence, and addition of her husband; and give the full name of each, without any abbreviations.

11. In case of Larceny, describe accurately and distinctly what the stolen articles are, and never use general words, such as "wearing apparel, shop goods, implements, &c. &c., but state each article stolen, distinctly by name; ascertain clearly the owner of the property, and in case several articles have been stolen by the prisoner, belonging to different persons, state particularly the articles belonging to each. Be very particular in stating the date when, and the place where the property was found; and every circumstance which can assist in determining whether the Indictment should be for stealing, or for receiving the property knowing it to be stolen. The Magistrates should take care that the property can be accurately traced at the trial, through all the hands into which it may have passed, from the time of its being found, till its production in Court. It would greatly simplify a case if the property could be allowed to remain in the custody of the first finder, and in the event of his not being trustworthy, then in the hands of the first next who may be so, and who may produce it at the trial. Several transfers, from one Police Officer to another, weaken the chain of communication. The Magistrate must deal with the property as with a witness, and take such measures as are needful to secure its production and identification, and all persons necessary for these purposes must be bound to prosecute.

12. In cases of cattle stealing, it is better to be particular in describing accurately the sex of the animal stolen; for instance, in the case of horses, whether the animal was an entire horse, a mare, a

gelding, a colt, or a filly. In the case of sheep, whether the animal was a ram, a ewe, a wether, or a lamb.

13. In cases of stealing money, mention, as distinctly as possible, of what items the money stolen consisted. For instance when one hundred rupees has been stolen, say, 100 Rupees, that is to say, four twenty Rupees *notes* of the bank of Madras (or whatever other bank may have issued them,) one gold mohur, and five rupees.

14. Mention whether the articles, or money, were stolen from the person of the Prosecutor, or not, and if from the person, whether at the time of, or immediately before, or immediately after the robbery, the accused did stab, cut or wound the prosecutor, and also whether the accused was armed with any weapon, and what it was; whether one or more persons were concerned in the robbery; and whether, at the time of, or immediately before, or immediately after, the robbery, the accused or any person with him, beat, struck, or used any other personal violence to the prosecutor. The same circumstances ought to be ascertained and stated, if the charge be of assault with intent to rob.

15. In informations against a receiver of stolen goods, if the person who stole them be known, mention his name.

16. In cases of obtaining money or goods under false pretences, describe the whole conversation and conduct of the prisoner, as accurately as possible; and in cases of cheating, be as minute as you can in stating the frauds practised. If the prisoner obtain money or goods under a false written order, be very particular in setting out the order verbatim; but in general, the best course to adopt is to affix the order to the information, after it has been *marked* for identification, by all the parties whose informations have referred to it, or at least by the Magistrate himself who shows it to them.

17. In cases of embezzlement of money or goods, or any valuable security, by clerks, servants or agents, state particularly what was embezzled, and all the circumstances under which it was done; by which of these three descriptions of persons it was done; and, if by an agent, whether he had received any instructions in *writing*, how to apply the money.

18. In all cases of breaking into a dwelling house, mention the

hour* at which it was done, and the acts of the prisoner thereupon; and in cases of breaking and stealing therefrom, state whether the prisoner in so doing, had broken into, or out of, the dwelling house, and at what hour. In cases of stealing from a dwelling house, in the day time, or without breaking into it, or out of it, at night, state whether any person who was in the dwelling house at the time was put in fear, and the value of the things. In cases of breaking into an out-house, and stealing therefrom, state whether the out-house communicates with the dwelling house by an enclosed or covered passage, or whether it is a shop, warehouse, or godown, without any such communication.

19. In cases of the demand of property, arms, &c., with menaces, or by force, state the very words used by the accused in making the demand, and the terms by which he described the article demanded.

20. In cases of forged notes, mention the name of the bank (and if a branch bank, of what bank,) the date, the sum, the number, and the signature of the clerk. In these cases the note may be affixed to the informations, after it shall have been marked for identification by all the parties whose informations have referred to it, or at least by the Magistrate himself who shows it to them, as is suggested in the preceding number (16) with respect to written orders.

21. In cases of passing bad coin, collect and state all previous instances of the prisoners having passed bad coin, and the times when they did so; whether any of the prisoners had any bad coin in their possession when taken into custody, and how many pieces. Mention distinctly the different kinds of coin, as directed in the 12th suggestion, respecting larceny of coin. The coins should also be carefully marked for identification, by every person through whose hands they may have passed before the detection and arrest of the prisoner; and care should also be taken, that after having been so marked, they are sealed up by the Nazir, or other person to whose charge they may be confided, so as to be produced in that state at the trial. Sealing by the Nazir, in the presence of the first finder, and re-opening before the

* So far as the same is essential to burglary, the night is to be considered, and is declared to commence at 9 o'clock in the evening of each day, and to conclude at 5 o'clock in the morning of the next day.

Judge on the trial would obviate the necessity of marking the coin, and this course may therefore be adopted where it is feasible. It is also of great importance that the precise nature of the transaction in which the prisoner passed, or attempted to pass, the coin in question, should be particularly set out by the information, together with his conduct upon his examination before the Magistrate.

22. In all cases of violence to the person, such as murder, rape, stabbing, cutting, or wounding, or assault, be as minute as possible in describing the different acts done by each of the persons accused. In cases of assault, state whether the injury be such as to endanger life, or to inflict grievous bodily harm, or to disfigure; and in all, when committed with fire arms, or dangerous weapons, the instruments, if discovered, should be preserved, and marked for production and identification, at the trial. In case the Justice shall find the assault and battery complained of, was not accompanied by any attempt to commit felony; or shall be of opinion that it is not a fit subject for a prosecution by indictment, he may proceed in a summary manner to hear and determine the offence.

23. In cases of rescue, observe the same care in describing the articles rescued, and in stating whose property they are, together with the name of the place where the offence was committed, as directed in the 11th suggestion, with respect to goods stolen; and state also, whether the goods rescued were under seizure as a distress for rent, or in execution of a Civil Bill decree, or Sheriff's warrant.

Note.—The oath should be administered before a deposition is taken down, not, as is sometimes the case, after it is taken down and when it is about to be read to the witness. All erasures and interlineations should be avoided as much as possible, and, when made, a memorandum of the fact should be affixed by the Magistrate.

24. The Magistrate, having heard the examinations and ascertained that the accused is not entitled to be discharged, is next to determine, whether he will bail or commit him. If the offence be a misdemeanour, the accused may insist on his being admitted to bail, and then the only question is, as to the amount, and solvency of the sureties. When any person shall be charged with felony, or suspicion of felony, and the charge is supported by creditable evidence of

the fact, the Justice may commit to prison. On the other hand, if the evidence given before him, shall not be such as to warrant a strong presumption of guilt, nor to warrant the dismissal of the charge, he may admit to bail. When the party accused is admitted to bail, be careful to set forth the particulars above stated (see No. 9) and also to state with particularity the offence for which the party so admitted to bail is committed. Magistrates have a discretionary authority as to the amount of bail. Such sum to be determined according to the affluence and rank of the prisoner, and the nature and enormity of the offence. In general two bails are required. Infants and married women, who cannot themselves be bound, ought to procure some person to be bound for them. In case of refusal they may be committed.

25. The warrant of committal should state the offence concisely, but with convenient certainty.

26. When the party accused is committed to custody, the case should be sent for the earliest trial, the prisoner being entitled, if innocent, to his liberty as soon as possible.

27. Magistrates ought to inform all persons bound to prosecute, or give evidence, that they must attend at the Court early on the day on which the Grand Jury is to be sworn, to be examined; indeed they must attend every day, unless they can ascertain that the trial is fixed for any particular day, as otherwise their recognizances will be estreated.

Of suppressing Breaches of the Peace.

28. The office of Justice of the Peace was instituted by an Act passed in the reign of Edward I. which directs that in every county, good and lawful men shall be assigned to keep the peace. This assignment is by the King's commission, and the duty of Justice of the Peace is, as that of Conservators of the Peace was, to use their own exertion, and to command the help of others, to arrest and pacify all persons who, in their presence, and within their jurisdiction and limits, by word or deed, shall go about to break the peace. If a Justice finds persons riotously assembling, he alone has not only

power to arrest the offenders, and bind them to their good behaviour; or imprison them if they do not offer good bail; but he may also authorize others to arrest them by a bare parole command *without warrant*; and by force thereof, the persons so commanded may pursue and arrest the offenders in his absence. It is a criminal offence, for which he is punishable on information, for a Justice to refuse to interfere for the preservation of the peace, and it is no excuse for him to say he was afraid—his fear must arise from actual danger, such as would affect a constant and firm man—he must do all that he knows to be in his power, and that can be expected from a man of ordinary prudence, firmness, and activity—he ought in the first instance to call on the Police; if they cannot be procured in sufficient force, private persons, or even the Military may be called in; but it does not form any part of the duty of the Justices, to marshal, or array the Police, or Military, or to head them when actually engaged in quelling a riot; that belongs to the officers of these respective forces. No prudent military man would act without a Magistrate, or at least an order from him, which is all that is required.

29. Any person who encourages, or promotes, or takes part in riots, whether by words, signs, or gestures, is himself to be considered as a rioter, and is liable to be arrested for a breach of the peace.

Of Sureties of the Peace, and of good behaviour.

30. Justices, by virtue of their commission, which enables them “to cause to come before them those who have used threats to others, to find sufficient security for the peace and good behaviour, and if they refuse to find such security, then to lodge them in prison, until they find such security, &c.” are empowered to require sureties of the peace and good behaviour, and also bind over to keep the peace for a specified time.

31. Recognizances entered into by any person before any tribunal or Justice of the Peace, conditional that such person shall keep the peace to Her Majesty’s subjects, or to any particular person, shall, immediately after the same shall be so acknowledged, be returned to the Clerk of the Crown. In case any person who shall

enter into such recognizance shall commit any breach of the peace, or in any manner violate the conditions of the recognizances, the Judges of the Supreme Court on due proof, that the person so bound has committed a breach of the peace, are to order that such recognizance shall be forfeited, to such amount as they shall think fit. To be levied by their warrant.

SCHEDULE OF FORMS.

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- 2. Deposition of a Native Witness.
- 3. Summons.
- 4. Warrant of Arrest.
- 5. Examination of a Prisoner.
- 6. Commitment for re-examination.
- 7. Commitment for Assault in default of fine.
- 8. Commitment for Trial in Madras.
- 9. Recognizance to prosecute at the Sessions.
- 10. Recognizance to give evidence at the Sessions.
- 11. Recognizance of accused, and his bail to Indictment.
- 12. Discharge or Liberation.
- 13. Deposition for swearing the Peace.
- 14. Warrant for Apprehension in do.
- 15. Recognizance with Sureties to keep the Peace.
- 16. Personal Recognizance.
- 17. Sureties for Good Behaviour.
- 18. Form of Oath.

No. 1.

Deposition of a Christian Witness.

• The Information and Deposition of _____ taken upon
 Oath before me _____ one of Her Majesty's Justices of the
 Peace, in and for the District of _____ in the Presidency

of Madras, the day of 185 , who on Oath
saith :—

Taken by me

Signature of Deponent.

Justice of the Peace.

No. 2.

Deposition of a Native Witness.

The Information and Deposition of being (a
Mahomedan or Hindoo, as the case may be,) taken upon solemn af-
firmation before me one of Her Majesty's Justices of
the Peace, in and for the District of in the Presidency
of Madras, the day of 185 , who on solemn
affirmation saith :—

&c.

No. 3.

Summons.

District of By Esq., Justice of the
To wit } Peace for and for the Provinces
Office of Justice of the Peace. } subject to the Presidency of Madras.

You are hereby required personally to be and appear at
on the day of 185 , at
o'clock to answer a complaint preferred against you by
for assaulting and beating him on the night of the
instant.

No.

Given under my hand, }
this 185 . }

Justice of the Peace.

To

No 4.

Warrant of Arrest.

To Nazir of the Criminal Court of and
Head Police Officer and to all other

Constables, and other Peace Officers within the Provinces, Districts, and Countries subject to the Presidency of Madras.

These are in Her Majesty's name to command you to apprehend and take the body of _____ having been charged before me (name of Justice in full) one of Her Majesty's Justice of the Peace, on the oath of _____ with having feloniously and maliciously assaulted one _____ with a bludgeon, by inflicting three blows on the said _____ whereby he lingered, languished, and soon after died, and bring him the said _____ before me, or any other of Her Majesty's Justices of the Peace, at their office in _____ aforesaid, to answer the said charge, and to be further dealt with according to law.

Given under my hand and seal, }
this day of 185 . } *Justice of the Peace.*

No. 5.

Examination of a Prisoner.

The Examination of _____ taken before me one of Her Majesty's Justice of the Peace in and for the district of _____ in the Presidency of Madras, the day of 185 . The said examinant being charged on the oaths (or solemn affirmations, as the case may be) of _____ and _____ with having feloniously (or as the case may be) _____ saith (whatever prisoner pleases, after being cautioned not to say any thing to criminate himself.

Prisoner's Signature.

Taken by me

Justice of the Peace.

No. 6.

Commitment for Re-examination.

To the Jailer of the Criminal Jail of

Receive into your custody the body of _____ herewith sent you ; he the said _____ being charged before me (name

of Justice in full) one of Her Majesty's Justices of the Peace, on the oath (or solemn affirmation) of _____ with having feloniously stolen, taken, and carried articles to the value of (100) one hundred rupees, of good and lawful money of Madras, the property of the said _____ (or as the case may be) and him the said _____ safely keep for further examination until the day of _____ 185 .

Given under my hand and seal, }
this day of _____ 185 . }

Justice of the Peace.

No. 7.

Commitment for Assault in default of Fine.

To _____ Jailer of the Criminal Jail of _____

Receive into your custody the body of _____ herewith sent you, he the said _____ having on the _____ day of _____ 184 , been convicted by me (name of Justice in full) Esquire, one of Her Majesty's Justice of the Peace, acting in and for the District of _____ in the Madras Presidency, on the oaths of credible witnesses, for having on the _____ day of _____ in the year of our Lord 185 , within the said Madras Presidency aforesaid, assaulted and beat one _____ and having been ordered and adjudged by me to pay a fine of fifty Company's rupees, and in default of paying the same to be committed to the Criminal Gaol of _____ for the period of one month, unless such fine be sooner paid, which said fine, he the said _____ not having paid, therefore him the said _____ safely keep in the Criminal Gaol of _____ aforesaid for a period of one month from this present day, unless he the said _____ shall sooner pay and discharge the said fine ; and in case he the said _____ shall not have sooner paid, and discharged the said fine, you are hereby directed to bring him the said _____ at the expiration of his said term of imprisonment before me, in order to his being discharged by due course of law.

Given under my hand and seal, }
this day of _____ 185 . }

Justice of the Peace.

No. 8.

Commitment for Trial in Madras.

To the Sheriff of the Town of Madras, and to the Keeper of Her Majesty's Prison at Madras.

Receive into your custody the body of _____ herewith sent you, he the said _____ being charged before me, (name of Justice in full) one of Her Majesty's Justices of the Peace, in and for the District of _____ in the Presidency of Madras, on the oath (or solemn affirmation) of _____ for that he the said _____ did feloniously, &c. _____ and him the said _____ safely keep until he shall be discharged by due course of law.

Given under my hand and seal, }
this day of 185 . } *Justice of the Peace.*

No. 9.

Recognizance to Prosecute at the Sessions.

District of } Be it remembered, that on the day of
 } in the year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith and so forth: A. B. of in the Presidency of Madras aforesaid personally came before me (name of Justice in full) one of the Justices of our said Lady the Queen, assigned to keep the Peace, within the provinces subject to the Presidency of Madras, and acknowledged himself to be indebted to our said Lady the Queen, in the sum of one thousand Company's rupees of good and lawful money of Madras aforesaid, to be made and levied of his goods, and chattels, lands and tenements, personally to the use of our said Lady the Queen, her heirs and successors, if the said shall fail in performing the condition under written.

The condition of this Recognizance is such, that if the above bounden shall personally be and appear, on the first and on the following days, at the next Sessions of Oyer and

Terminer, and Gaol Delivery, to be holden in and for the Town of Madras, and shall then and there prefer a Bill of Indictment against
for Larceny and shall then and there give evidence of all such matters and things as shall have come to his knowledge, and can be objected to the said on the said Bill of Indictment, and in case such Bill of Indictment shall be found, then if the said shall prosecute the same with effect; and shall then and there attend from day to day, and shall not depart the Court without leave thereof, then this obligation is to be void, and of no effect, otherwise to be and remain in full force and virtue.

Taken and acknowledged the day }
and year first above written before me, } Signature of A. B.
Justice of the Peace.

No. 10.

Recognizance to give evidence at the Sessions.

District of } Be it remembered that on the day of
} in the year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth: A. B. of , C. D. of and E. F. of severally came before me (name of Justice in full) one of the Justices of our said Lady the Queen, assigned to keep the Peace within the Provinces subject to the Presidency of Madras, and acknowledged themselves severally to be indebted to our said Lady the Queen, in the sum of Company's rupees five hundred of good and lawful money of Madras aforesaid, to be made and levied of their goods and chattels, lands, and tenements, severally to the use of our said Lady the Queen, her heirs, and successors, if the said A. B., C. D. and E. F. shall fail in performing the condition under written.

The condition of this Recognizance is such, that if the above bounden A. B., C. D. and E. F., shall personally be and appear on the first and on the following days at the next Sessions of Oyer and Terminer, and Gaol Delivery, to be holden in and for the Town of Madras, and shall then and there severally attend from day to day

to give evidence of all such matters and things as shall have come to their knowledge, and can be objected against G. H. on a Bill of Indictment to be preferred against G. H. upon the prosecution of I. K., and if the said A. B., C. D. and E. F., shall then and there attend from day to day, and not depart the Court without leave thereof, then this Recognizance to be void and of no effect, otherwise to be and remain in full force and virtue.

Taken and acknowledged
the day and year first above
written before me,

Signature of A. B.
Ditto of C. D.
Ditto of E. F.

Justice of the Peace.

No. 11.

Recognizance of Prisoner and Sureties to Indictment.

District of } Be it remembered that on the day of
 } in the year of the Reign of our Sovereign Lady
Victoria, by the Grace of God, of the United Kingdom of Great
Britain and Ireland, Queen, Defender of the Faith, and so forth :
(names in full) A. B., C. D. and E. F., securities, severally came
before me (name of Justice in full) one of the Justices of our said
Lady the Queen, assigned to keep the Peace within the Provinces
subject to the Presidency of Madras, and acknowledged themselves
to be indebted to our said Lady the Queen, in the sum of two
thousand Company's rupees, that is to say, the said A. B. in the
sum of one thousand Company's rupees, and the said C. D. and E.
F. in the sum of five hundred Company's rupees each, of good and
lawful money of Madras aforesaid, to be respectively made and levied
of their several goods, and chattels, lands, and tenements, to the use
of our said Lady the Queen, her heirs, and successors, if the said
A. B. shall fail in performing the condition under written.

The condition of this Recognizance is such that if the above
bounden A. B. shall personally be and appear on the first and on the
following days, at the next Sessions of Oyer and Terminer, and Gaol
Delivery, to be holden in and for the Town of Madras, and shall
then and there attend from day to day, to answer to any Bill of In-

dictment that may be presented against him by (Prosecutor), and shall then and there abide, and undergo the order of the said Court, and shall not depart the Court, without leave thereof, then his Recognizance to be void, and of no effect, otherwise to be and remain in full force and virtue.

Taken and acknowledged }
the day and year first above }
written before me,

A. B.'s Signature.

C. D.'s do.

E. F.'s do

Justice of the Peace.

No. 12.

Discharge or Liberation.

To the Jailer of the Criminal Jail of

Discharge out of your custody the body of A. B. committed by
my warrant, dated the day of 185 .

Given under my hand }
and seal, this day }
of 185 . }

Justice of the Peace.

No. 13.

Deposition for Swearing the Peace.

The information and complaint of A. B. District of
taken upon oath before me (name of Justice in full,) one of Her Ma-
jesty's Justices of the Peace for the the day of
185 , who says that one C. D., who saw the deponent
in the street, threatened to take his life, and that from the above
threats used by the said C. D. towards this complainant this com-
plainant is afraid that the said C. D. will do him some bodily injury,
and therefore prays that the said C. D. may be required to find suf-
ficient sureties to keep the Peace and be of good behaviour towards
him the said complainant, and the said A. B. also says, that he does
not make this complaint against, nor require sureties from the said

C. D. from any malice or ill will, but merely for the preservation of his person from injury.

Sworn the day and year }
abovementioned before me, }

A. B.'s Signature.

Justice of the Peace.

No. 14.

Warrant for Apprehension to swear the Peace.

To A. B., Nazir of the Criminal Court of _____ and to all other Constables, and other Peace officers within the Provinces subject to the Presidency of Madras.

These are in Her Majesty's name to command you to apprehend and take the body of C. D. having been charged before me (name of Justice in full) one of Her Majesty's Justices of the Peace, on the oath of E. F. with having used threats by which the said E. F. apprehends some bodily injury from him the said C. D., and therefore the said E. F. craves securities of the peace may be given by the said C. D. and bring him the said C. D. before me, or any other of Her Majesty's Justices of the Peace at _____ to find such securities, and to be further dealt with according to law.

Given under my hand and seal, }
this day of 185 . }

Justice of the Peace.

No. 15.

Recognizance with Sureties to keep the Peace.

District of } Be it remembered that on the day of
 } in the year of the Reign of our Sovereign Lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and so forth: (names in full) A. B., C. D. and E. F. sureties, severally came before me (name of Justice in full) one of the Justices of our said Lady the Queen, assigned to keep the Peace, within the Provinces

subject to the Presidency of Madras, and acknowledged themselves to be indebted to our said Lady the Queen, in the sum of two thousand Company's Rupees, that is to say, the said A. B. in the sum of one thousand Company's Rupees, and the said C. D. and E. F. in the sum of five hundred Company's Rupees each, of good and lawful money of Madras aforesaid, to be made and levied of their goods, and chattels, and lands and tenements, severally to the use of our said Lady the Queen, her heirs and successors, if the said A. B. shall fail in performing the condition under written.

The condition of this Recognizance is such, that if the above bounden A. B. shall keep the peace, and be of good behaviour toward all Her Majesty's liege subjects, but more especially towards G. H., for the space of one year, then this obligation to be void, and of no effect, otherwise to be and remain in full force and virtue.

Taken and acknowledged the day and }
year first above written before me } *Justice of the Peace.*

No. 16.

Personal Recognizance.

District of } Be it remembered, that on the day of
in the year of the Reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth : A. B. came before me (name of Justice in full) one of the Justices of our said Lady the Queen, assigned to keep the Peace within the Provinces subject to the Presidency of Madras, and acknowledged himself to be personally indebted to our said Lady the Queen, in the sum of five hundred Company's Rupees of good and lawful money of Madras aforesaid, to be made and levied of his goods and chattels, lands and tenements, personally to the use of our said Lady the Queen, her heirs and successors, if the said A. B. shall fail in performing the condition under written. The condition of the Recognizance is such, that if the above bounden A. B. shall keep the peace and be of good behaviour toward all her Majesty's liege subjects, but more es-

pecially towards C. D. for the space of one year, then this obligation to be void and of no effect, otherwise to be and remain in full force and virtue.

Taken and acknowledged the day }
and year first above written before me } A. B.'s Signature.

Justice of the Peace.

No. 17.

Commitment in Default of Sureties for Good Behaviour.

To A. B., Nazir of the Criminal Court of

Receive into your custody the body of C. D., herewith sent you, he the said C. D., being charged before me (name of Justice in full) one of Her Majesty's Justices of the Peace, on the oath of E. F., with having used threats towards the said E. F., by which the said E. F. apprehends danger to his life, and him the said C. D., safely keep until he shall find securities for keeping the Peace, towards the said E. F. or until the (period not exceeding one year) next.

Given under my hand and seal, }
this day of 185 . } *Justice of the Peace.*

No. 18.

Oath.

The evidence you shall give in this case shall
be truth, the whole truth, and nothing but the truth, so help you
God.

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